AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Part II begins on page 6107

Pages 6033–6180

Rules & Stand. Library

PART I

FEDERAL REGISTER

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

VOLUME 28 NUMBER 116

Washington, Friday, June 14, 1963

Contents

THE PRESIDENT

Executive Order

Establishing the President's Advisory Council on the Arts 6037

EXECUTIVE AGENCIES

Agricultural Marketing Service

NOTICES:

Casa Grande Livestock Auction Co. et al.; changes in names of posted stockyards 6097

Tuscaloosa Stock Yard et al.; proposed posting of stockyards 6097

PROPOSED RULE MAKING:

Limes grown in Florida; expenses and fixing of rate of assessment for 1963–64 fiscal year 6082

Milk in certain marketing areas; notice of recommended decision and opportunity to file written exceptions on proposed amendments to tentative marketing agreements and to orders (3 documents) 6107, 6139, 6171

Milk in Colorado Springs-Pueblo marketing area; notice of proposed suspension of certain provisions of the order 6082

RULES AND REGULATIONS:

Carrots grown in South Texas; shipment limitation 6062

Agricultural Stabilization and Conservation Service

RULES AND REGULATIONS:

Feed grain program, 1963; county average yields and county rates 6039

Mainland sugar quota for Puerto Rico, 1963; amendment of allotment of direct-consumption portion 6061

Wheat, 1964–65 marketing year; proclamation of results of marketing quota referendum 6039

Agriculture Department

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service.

NOTICES:

California; extension of period for emergency loans 6097

Air Force Department

RULES AND REGULATIONS:

Air Force Reserve Officers Training Corps 6070

Army Department

See also Engineers Corps.

RULES AND REGULATIONS:

Claims incident to use of government vehicles and other property of the United States not cognizable under other law 6069

Employment and compensation in the Canal Zone; additional exclusion 6062

Atomic Energy Commission

NOTICES:

Aerojet-General Nucleonics; issuance of amendment to facility license 6098

Board of Trustees of Leland Stanford Junior University; issuance of amendment to utilization facility license 6099

Civil Aeronautics Board

NOTICES:

North Atlantic routes, investigation of tariff and rate activities; cancellation of hearing 6099

PROPOSED RULE MAKING:

Rules applicable to compromise of civil penalties and seizure of aircraft 6082

Coast Guard

RULES AND REGULATIONS:

Coast Guard Procurement Regulations 6074

Commerce Department

NOTICES:

Zahn, Lawrence H.; statement of changes in financial interests 6098

Customs Bureau

RULES AND REGULATIONS:

Temporary importations under bond 6065

Defense Department

See also Air Force Department; Army Department; Engineers Corps.

RULES AND REGULATIONS:

Contract clauses; procurement forms; miscellaneous amendments 6068

Emergency Planning Office

RULES AND REGULATIONS:

Defense mobilization order creating an Interagency Health Advisory Board; revocation 6074

Engineers Corps

RULES AND REGULATIONS:

Chicago River, Ill.; bridge regulations 6074

Federal Aviation Agency

PROPOSED RULE MAKING:

Control zone, control area extension and transition area; alteration, revocation and designation 6092

Federal airways and associated control areas; alteration 6091

Federal airway; alteration 6093

Scheduled interstate air carrier certification and operation rules; miscellaneous amendments 6083

RULES AND REGULATIONS:

Enforcement procedures; miscellaneous amendments 6064

(Continued on next page)

Federal Communications Commission

NOTICES:

Hearings, etc.:

Broward County Broadcasting 6101
Crowder, James R 6100
Oldring, Walter W 6100
Ponce Broadcasting Corp. and Abacoa Radio Corp. (WMIA) 6099
Rhinelander Television Cable Corp 6100

PROPOSED RULE MAKING:

Nationwide two-way public air-ground radiotelephone service; establishment 6093

RULES AND REGULATIONS:

Radio frequency devices; all-channel television broadcast receivers 6081

Federal Home Loan Bank Board

PROPOSED RULE MAKING:

Federal savings and loan associations; drive-in facility 6095

RULES AND REGULATIONS:

Sales plans and sales commissions; miscellaneous amendments 6062

Federal Maritime Commission

NOTICES:

United States/Persian Gulf trade; hearing on protest of approval and notice of consolidation 6101

Federal Power Commission

NOTICES:

Hearings, etc.:

Hudson Gas & Oil Corp. et al 6102
Potomac Edison Co 6101
Southwestern Public Service Co 6101
Western Gas Service Co 6102

Food and Drug Administration

NOTICES:

Enriched flour deviating from identity standard; issuance of temporary permit to cover market testing 6097

RULES AND REGULATIONS:

Bread; order amending standard of identity by including calcium bromate as optional ingredient 6066
Enriched corn grits; order amending standard of identity 6066
Food additives:
Adhesives 6067
Ethylene-alkene-1 copolymers 6067
Filters, resin-bonded 6068
Resinous and polymeric coatings for paper and paperboard 6068
Sodium carboxymethyl cellulose; confirmation of effective date of order adding "cellulose gum" as an alternative name in food standards 6067

Health, Education, and Welfare Department

See Food and Drug Administration.

Interior Department

See Land Management Bureau; National Park Service.

Interstate Commerce Commission

NOTICES:

Fourth section applications for relief 6103

Land Management Bureau

NOTICES:

California; notice of filing of plat of survey and order providing for opening of public lands 6098

RULES AND REGULATIONS:

Applications, petitions, and appeals with respect to public land laws 6075
Classifications; miscellaneous amendments 6078

National Park Service

NOTICES:

Kings Mountain National Military Park, administrative assistant; delegation of authority regarding purchase orders 6098

Securities and Exchange Commission

NOTICES:

American Natural Gas Co. et al.; method of allocating consolidated tax liabilities 6103

Small Business Administration

RULES AND REGULATIONS:

Definition of a Small Business for purpose of receiving priority as a claimant 6063

Treasury Department

See also Coast Guard; Customs Bureau.

NOTICES:

4 percent Treasury Bonds of 1970; offering of bonds 6096

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

3 CFR

EXECUTIVE ORDERS:
11112 6037

5 CFR

201 6062

7 CFR

728 6039
775 6039
815 6061
970 6062

PROPOSED RULES:
911 6082
1001 6107
1002 6139
1004 6171
1006 6107
1007 6107
1010 6171
1014 6107
1015 ..... 6107, 6139
1135 6082

12 CFR

563 6062

PROPOSED RULES:
545 6095

13 CFR

121 6063

14 CFR

13 [New] 6064

PROPOSED RULES:
40 6083
71 [New] (3 documents) 6091–6093
302 6082

19 CFR

10 6065
16 6065
25 6065

21 CFR

15 6066
17 6066
19 6067
25 6067
121 (4 documents) 6067, 6068

32 CFR

7 6068
16 6068
536 6069
862 6070

32A CFR

OEP (CH. I):
DMO XII–1 6074

33 CFR

203 6074

41 CFR

11–1 6074

43 CFR

75 6076
130 6076
132 6076
146 6076
148 6076
149 6076
166 6076
167 6077
176 6077
221 6077
232 6077
234 6077
250 6078
254 6078
257 6078
270 6078
296 6078

47 CFR

15 6081

PROPOSED RULES:
21 6093

Public Papers of the Presidents

✦

Containing Public Messages, Speeches and Statements, Verbatim News Conferences

✦

Volumes for the following years are now available:

Truman:
1945 ..... $5.50
1946 ..... 6.00

Eisenhower:
1953 ..... $6.75
1954 ..... 7.25
1955 ..... 6.75
1956 ..... 7.25
1957 ..... 6.75
1958 ..... 8.25
1959 ..... 7.00
1960–61 ..... 7.75

Kennedy:
1961 ..... $6.00

Published by the Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, United States Government Printing Office, Washington 25, D.C.

FEDERAL REGISTER

Telephone WOrth 3-3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11112

ESTABLISHING THE PRESIDENT'S ADVISORY COUNCIL ON THE ARTS

By virtue of the authority vested in me as President of the United States it is ordered as follows:

SECTION 1. *Establishment of the Council.* (a) There is hereby established the President's Advisory Council on the Arts (hereinafter referred to as the Council).

(b) The Council shall be composed of the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Postmaster General, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Housing and Home Finance Administrator, the Chairman of the Commission of Fine Arts, the Secretary of the Smithsonian Institution, the Director of the United States Information Agency, the Administrator of General Services, the President's Special Consultant on the Arts, and no more than thirty members appointed by the President from among persons in private life who are widely recognized for their role in the arts, including practicing artists, civic and cultural leaders, and others professionally engaged in the arts. Members from private life shall serve for terms of two years, except that the terms of members initially appointed shall be for one or two years as specified by the President. The Chairman shall also invite the Librarian of Congress to be a member of the Council.

(c) The President shall designate the Chairman of the Council.

(d) Federal members of the Council shall receive no compensation for such service. Members appointed from private life shall receive compensation for each day engaged on business of the Council and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 55a; 5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(e) The Council shall meet at the call of the Chairman.

SEC. 2. *Functions and Responsibilities of the Council.* (a) The Council shall:

(1) Survey and assess the needs and prospects of the various arts throughout the United States, the means used to encourage creative activity and to afford opportunity for participation in and appreciation and enjoyment of the arts, and the relative roles of governmental and non-governmental institutions in relation to the arts;

(2) Identify existing Federal legislation, policies and programs which directly or indirectly affect the arts, and evaluate their current and potential effects on the development of cultural opportunities and institutions and, except to the extent that responsibility may be vested by statute in other Federal advisory bodies, the character and quality of Federal activities in the field of the arts;

(3) Submit reports and recommendations to the President on its own initiative or at the request of the President or the President's Special Consultant on the Arts;

(4) Encourage and facilitate the most effective use of resources available for support and development of the arts by advising and consulting with Federal, State and local agencies, civic and community organizations, educational institutions, foundations, and other interested organizations and institutions; and

(5) Promote and stimulate public understanding and recognition of the importance of the arts and cultural institutions to our national welfare and our international interests.

(b) In carrying out its functions the Council shall, insofar as practicable, provide interested Government and non-governmental agencies and organizations and private citizens, including practicing artists and others professionally engaged in the arts, an opportunity to present their views and recommendations to the Council for its consideration.

(c) For the purposes of this section the arts are defined to include music, drama, opera, dance, painting, sculpture, literature, architecture and such allied fields as urban and landscape design, photography, graphic arts, crafts, motion pictures, radio and television.

SEC. 3. *Federal Agencies.* (a) As deemed necessary to facilitate the work of the Council, the Chairman may request the head of any executive department or agency whose activities have significant implications for the arts to designate a liaison officer to consult with and advise the Council on matters of common concern.

(b) Upon request of the Chairman each executive department and agency is authorized and directed, consistent with law, to furnish the Council available information which the Council may require in the performance of its functions.

(c) Each Federal agency represented on the Council shall furnish such necessary assistance to the Council as may be authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

(d) The General Services Administration is hereby designated as the agency which shall provide administrative services for the Council on a reimbursable basis.

JOHN F. KENNEDY

THE WHITE HOUSE,
June 12, 1963.

[F.R. Doc. 63-6347; Filed, June 13, 1963; 10:43 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 728—WHEAT

Subpart—1964–65 Marketing Year

PROCLAMATION OF RESULTS OF MARKETING QUOTA REFERENDUM

Section 728.9 is issued to announce the results of the wheat marketing quota referendum for the marketing year, July 1, 1964, through June 30, 1965, under the provisions of the Agricultural Adjustment Act of 1938, as amended by the Food and Agriculture Act of 1962. The Secretary proclaimed a national marketing quota for wheat for the 1964–1965 marketing year (28 F.R. 3254). The Secretary announced (28 F.R. 3289) that a referendum would be held on May 21, 1963, to determine whether wheat producers were in favor of or opposed to marketing quotas for the marketing year, July 1, 1964, through June 30, 1965. Since the only purpose of this proclamation is to announce results of the referendum, and since the Act requires such announcement within 30 days after the date of the referendum, it is found and determined that with respect to this proclamation, application of the notice, procedure, and effective date provisions of the Administrative Procedure Act (5 U.S.C. 1003) is unnecessary and impracticable, and this proclamation shall become effective upon publication in the FEDERAL REGISTER.

§ 728.9 Proclamation of the results of the wheat marketing quota referendum for the marketing year 1964–65.

In a referendum of farmers held on May 21, 1963, pursuant to section 336 of the Agricultural Adjustment Act of 1938, as amended by the Food and Agriculture Act of 1962, 1,222,856 eligible farmers voted. Of those voting, 584,284 or 47.8 percent favored quotas and 638,572 or 52.2 percent opposed quotas for the marketing year beginning July 1, 1964. Since more than one-third of those voting opposed quotas, wheat marketing quotas will not be in effect for the 1964–65 marketing year.

(Sec. 336, 375, 52 Stat. 55, 66, as amended, 76 Stat. 621; 7 U.S.C. 1336, 1375)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 10, 1963.

RAY FITZGERALD,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-6288; Filed, June 13, 1963; 8:53 a.m.]

SUBCHAPTER C—SPECIAL PROGRAMS

[1963 Feed Grain Program, Amdt. 1]

PART 775—FEED GRAINS

Subpart—1963 Feed Grain Program Regulations

The 1963 Feed Grain Program Regulations, 28 F.R. 4282, are hereby amended by adding a new section as follows:

§ 775.228 County average yields and county rates.

The county average yields and the county rates for determining the diversion payments for the 1963 crops of barley, corn, and grain sorghums under § 775.213 are as follows:

1963 FEED GRAIN PROGRAM

COUNTY 1959–60 ADJUSTED AVERAGE YIELD PER ACRE AND RATE PER BUSHEL USED IN DETERMINING COUNTY DIVERSION PAYMENTS

ALABAMA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Autauga	30.5	$1.02	26.4	$1.35	20.6	$1.16
Baldwin			35.8	1.35	35.5	1.16
Barbour			24.2	1.35	26.2	1.16
Bibb			25.5	1.35	29.6	1.16
Blount			27.4	1.35	25.4	1.16
Bullock			22.8	1.35	27.5	1.16
Butler			27.6	1.35	23.0	1.16
Calhoun			26.9	1.35	20.8	1.16
Chambers	27.0	1.02	22.0	1.35	15.8	1.16
Cherokee	30.0	1.02	25.2	1.35	28.6	1.16
Chilton			27.0	1.35	22.0	1.16
Choctaw			23.8	1.35	23.0	1.16
Clarke			24.2	1.35	23.2	1.16
Clay			23.2	1.35	19.5	1.16
Cleburne			25.3	1.35	20.5	1.16
Coffee	27.0	1.02	24.0	1.35	24.2	1.16
Colbert	31.5	1.02	26.0	1.35	19.6	1.16
Conecuh			26.2	1.35	23.0	1.16
Coosa			24.8	1.35	12.3	1.16
Covington			25.1	1.35	23.1	1.16
Crenshaw			25.8	1.35	20.6	1.16
Cullman			29.5	1.35	23.2	1.16
Dale			24.0	1.35	20.0	1.16
Dallas	27.5	1.02	26.0	1.35	19.0	1.16
De Kalb	30.0	1.02	30.3	1.35	26.5	1.16
Elmore			26.2	1.35	27.5	1.16
Escambia			29.9	1.35	28.0	1.16
Etowah			28.2	1.35	24.0	1.16
Fayette			25.0	1.35	19.6	1.16
Franklin	29.0	1.02	24.8	1.35	25.4	1.16
Geneva			25.2	1.35	20.0	1.16
Greene			22.0	1.35	19.0	1.16
Hale	27.0	1.02	21.6	1.35	19.0	1.16
Henry			25.8	1.35	22.5	1.16
Houston	27.0	1.02	26.7	1.35	20.3	1.16
Jackson	30.0	1.02	30.0	1.35	26.5	1.16
Jefferson			29.2	1.35	23.2	1.16
Lamar			22.8	1.35	15.0	1.16
Lauderdale	30.5	1.02	25.4	1.35	24.1	1.16
Lawrence	30.0	1.02	26.8	1.35	28.5	1.16
Lee	27.0	1.02	23.9	1.35	20.7	1.16
Limestone	31.0	1.02	31.7	1.35	25.2	1.16
Lowndes			25.0	1.35	19.5	1.16
Macon			22.1	1.35	26.2	1.16
Madison	31.0	1.02	32.7	1.35	31.3	1.16
Marengo			21.2	1.35	27.0	1.16
Marion			24.2	1.35	25.0	1.16
Marshall			29.8	1.35	26.2	1.16
Mobile			31.1	1.35	30.0	1.16
Monroe			28.2	1.35	32.1	1.16
Montgomery			23.4	1.35	23.0	1.16
Morgan	28.5	1.02	26.2	1.35	21.3	1.16
Perry			25.4	1.35	23.0	1.16
Pickens			22.2	1.35	27.0	1.16
Pike			24.0	1.35	21.6	1.16
Randolph			23.3	1.35	15.6	1.16
Russell			23.4	1.35	22.5	1.16
St. Clair	28.5	1.02	26.2	1.35	29.0	1.16
Shelby	29.0	1.02	24.8	1.35	29.0	1.16
Sumter			20.2	1.35	23.0	1.16
Talladega			23.3	1.35	26.0	1.16
Tallapoosa			20.5	1.35	15.0	1.16
Tuscaloosa			23.0	1.35	24.5	1.16
Walker			25.8	1.35	26.8	1.16
Washington	27.0	1.02	25.7	1.35	24.8	1.16
Wilcox	27.5	1.02	24.8	1.35	22.5	1.16
Winston			26.5	1.35	22.5	1.16

ARIZONA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Apache	42.5	$0.87	11.0	$1.39	20.0	$1.02
Cochise	45.0	.97	50.9	1.39	63.0	1.22
Coconino	42.5	.87	11.1	1.39	20.0	1.02
Gila	40.0	.77	45.0	1.39	40.0	.99
Graham	55.0	.92	45.0	1.39	51.0	1.16
Greenlee	45.0	.77	42.5	1.39	56.5	.99
Maricopa	69.5	1.04	57.5	1.39	59.5	1.30
Mohave	44.5	.87	20.0	1.39	60.0	1.01
Navajo	42.5	.87	15.3	1.39	20.0	1.02
Pima	66.0	1.01	50.0	1.39	53.5	1.27
Pinal	60.5	1.04	51.0	1.39	59.5	1.30
Santa Cruz	50.0	.99	45.0	1.39	42.5	1.24
Yavapai	50.0	.87	29.8	1.39	30.0	.98
Yuma	61.0	1.05	50.0	1.39	46.0	1.32

ARKANSAS

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Arkansas	27.4	$1.05	22.4	$1.31	27.8	$1.23
Ashley			31.3	1.31	17.4	1.13
Baxter	14.4	.96	33.8	1.31	28.5	1.13
Benton	26.4	.92	39.8	1.31	26.6	1.09
Boone	25.0	.95	40.2	1.31	17.3	1.11
Bradley			22.0	1.31	13.5	1.13
Calhoun			25.8	1.31	34.4	1.14
Carroll	26.4	.94	44.6	1.31	28.8	1.10
Chicot			27.2	1.31	22.2	1.14
Clark			26.6	1.31	22.4	1.13
Clay	27.6	1.05	32.8	1.31	27.9	1.23
Cleburne	11.0	1.05	27.2	1.31	27.6	1.23
Cleveland			26.8	1.31	19.1	1.16
Columbia			20.6	1.31	27.5	1.11
Conway	26.8	1.03	26.0	1.31	19.0	1.20
Craighead	30.2	1.05	30.8	1.31	25.6	1.23
Crawford	38.3	.94	32.1	1.31	22.3	1.10
Crittenden	21.2	1.05	33.2	1.21	20.5	1.23
Cross	28.2	1.05	27.7	1.31	31.6	1.23
Dallas			26.4	1.31	18.7	1.14
Desha	30.0	1.04	32.4	1.31	20.1	1.22
Drew			24.5	1.31	21.4	1.16
Faulkner	24.9	1.03	24.0	1.31	23.0	1.22
Franklin	29.6	.95	33.0	1.31	24.0	1.11
Fulton			35.8	1.31	27.6	1.16
Garland	30.0	.96	26.6	1.31	10.7	1.13
Grant			32.5	1.31	22.5	1.14
Greene	32.0	1.05	28.4	1.31	23.0	1.23
Hempstead	26.0	.95	24.5	1.31	23.3	1.11
Hot Spring			30.0	1.31	21.8	1.14
Howard	26.0	.94	27.4	1.31	25.4	1.11
Independence	29.6	1.02	41.5	1.31	27.1	1.19
Izard			29.5	1.31	18.0	1.14
Jackson	35.0	1.05	38.8	1.31	29.1	1.23
Jefferson			30.4	1.31	25.8	1.21
Johnson	27.2	.95	32.6	1.31	45.4	1.11
Lafayette			29.8	1.31	25.1	1.11
Lawrence	22.1	1.05	36.2	1.31	19.5	1.23
Lee	30.1	1.05	27.6	1.31	43.9	1.23
Lincoln			32.6	1.31	25.8	1.22
Little River			30.7	1.31	17.7	1.11
Logan	33.0	.94	35.7	1.31	20.2	1.11
Lonoke	30.0	1.05	28.0	1.31	19.3	1.23
Madison	19.9	.92	40.1	1.31	34.1	1.09
Marion			39.3	1.31	25.0	1.11
Miller			27.0	1.31	13.2	1.11
Mississippi	31.1	1.05	44.6	1.31	28.5	1.23
Monroe	27.0	1.05	27.3	1.31	43.0	1.23
Montgomery			27.4	1.31	16.5	1.11
Nevada			23.0	1.31	35.4	1.11
Newton			33.6	1.31	20.0	1.11
Ouachita			19.8	1.31	17.5	1.13
Perry	28.5	.96	28.2	1.31	20.2	1.13
Phillips	37.0	1.05	28.1	1.31	22.7	1.23
Pike			29.6	1.31	40.0	1.11

ARKANSAS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Poinsett	25.5	$1.05	35.7	$1.31	28.5	$1.23
Polk	25.0	.92	28.5	1.31	43.6	1.09
Pope	39.0	.96	29.2	1.31	16.2	1.13
Prairie	27.4	1.05	26.7	1.31	22.6	1.23
Pulaski	22.5	1.04	41.0	1.31	28.8	1.22
Randolph	30.9	1.05	35.4	1.31	36.6	1.23
St. Francis	30.2	1.05	31.5	1.31	20.4	1.23
Saline			33.9	1.31	25.9	1.16
Scott			25.9	1.31	50.0	1.09
Searcy	8.5	.95	30.6	1.31	20.0	1.11
Sebastian	34.2	.94	28.0	1.31	27.0	1.10
Sevier			27.2	1.31	40.6	1.09
Sharp	10.5	.99	31.4	1.31	21.0	1.16
Stone			33.3	1.31	45.0	1.15
Union			15.9	1.31	16.5	1.11
Van Buren			25.9	1.31	18.2	1.16
Washington	29.6	.92	41.4	1.31	27.0	1.09
White	20.8	1.05	29.8	1.31	25.9	1.23
Woodruff	28.2	1.05	34.8	1.31	29.2	1.23
Yell	21.0	.96	31.1	1.31	25.6	1.13

CALIFORNIA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Alameda	32.0	$1.10	50.0	$1.39	57.0	$1.38
Alpine	40.0	1.01				
Amador	33.5	1.10	51.0	1.39	61.0	1.38
Butte	49.0	1.06	71.0	1.39	66.0	1.32
Calaveras	32.2	1.10				
Colusa	39.5	1.07	56.0	1.39	65.2	1.34
Contra Costa	33.8	1.10	68.5	1.39	90.0	1.33
El Dorado					45.0	1.38
Fresno	55.5	1.06	64.0	1.39	61.2	1.33
Glenn	32.5	1.05	56.5	1.39	62.0	1.31
Humboldt	47.5	.97			25.0	1.22
Imperial	60.5	1.07	68.5	1.39	61.5	1.33
Inyo			51.0	1.39	30.0	1.19
Kern	48.5	1.04	63.5	1.39	59.2	1.30
Kings	59.5	1.06	56.5	1.39	51.0	1.33
Lake	28.0	1.05	69.0	1.39	49.5	1.32
Lassen	30.7	.96	35.0	1.39		
Los Angeles	29.0	1.09	75.5	1.39	67.5	1.36
Madera	27.0	1.08	67.0	1.39	63.0	1.34
Marin	40.5	1.10			35.0	1.38
Mendocino	30.5	1.03	45.0	1.39	25.0	1.29
Merced	39.0	1.09	65.5	1.39	54.5	1.36
Modoc	53.0	.99				
Mono			40.0	1.39		
Monterey	30.5	1.06	72.0	1.39	35.0	1.33
Napa	32.5	1.10	64.0	1.39	39.5	1.37
Orange	26.4	1.08	37.0	1.39	27.5	1.34
Placer	24.5	1.09	65.0	1.39	71.0	1.36
Plumas	40.0	1.01				
Riverside	33.0	1.06	60.0	1.39	62.0	1.33
Sacramento	54.5	1.10	87.0	1.39	79.0	1.37
San Benito	33.0	1.07	60.0	1.39	37.5	1.34
San Bernardino	23.2	1.08	66.0	1.39	87.5	1.36
San Diego	28.3	1.06	58.0	1.39	38.0	1.32
San Joaquin	59.0	1.12	73.2	1.39	68.5	1.39
San Luis Obispo	26.0	1.03	65.0	1.39	40.0	1.29
San Mateo	27.0	1.10				
Santa Barbara	31.5	1.04	80.0	1.39	71.5	1.30
Santa Clara	41.8	1.10	73.0	1.39	55.0	1.37
Santa Cruz	35.0	1.08				
Shasta	27.0	1.00	39.0	1.39		
Sierra	25.9	.95				
Siskiyou	51.0	1.00				
Solano	43.5	1.09	87.5	1.39	71.5	1.37
Sonoma	29.5	1.09	69.5	1.39	43.0	1.36
Stanislaus	37.5	1.11	57.5	1.39	71.0	1.38
Sutter	48.0	1.07	73.0	1.39	70.5	1.34
Tehama	28.0	1.02	77.0	1.39	55.0	1.28
Tulare	43.0	1.05	66.5	1.39	61.5	1.33

CALIFORNIA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Tuolumne	22.0	$1.11				
Ventura	33.5	1.09	75.0	$1.39	70.5	$1.36
Yolo	47.2	1.08	86.5	1.39	70.0	1.36
Yuba	43.5	1.08	45.5	1.39	55.0	1.34
COLORADO						
Adams	29.8	$0.86	66.0	$1.28	18.7	$1.02
Alamosa	38.5	.87	50.0	1.31		
Arapahoe	29.7	.86	36.6	1.29	16.0	1.02
Archuleta	36.2	.87	32.0	1.34		
Baca	20.0	.87	32.4	1.30	21.0	1.05
Bent	32.4	.87	54.0	1.30	52.0	1.02
Boulder	47.2	.86	73.6	1.29	45.6	1.02
Chaffee	41.0	.87				
Cheyenne	23.0	.88	21.8	1.28	14.6	1.02
Conejos	43.5	.87	49.0	1.32		
Costilla	39.5	.87	48.0	1.30		
Crowley	31.8	.86	53.5	1.30	42.0	1.02
Custer	28.0	.81	25.0	1.30	19.1	1.02
Delta	44.8	.87	67.6	1.36	48.0	1.02
Dolores	16.8	.87	16.5	1.38	16.0	1.02
Douglas	25.1	.86	28.6	1.30	13.2	1.02
Eagle	45.3	.87	43.0	1.34		
Elbert	23.5	.86	18.5	1.29	14.3	1.02
El Paso	19.9	.86	18.9	1.30	15.7	1.02
Fremont	29.8	.82	43.2	1.30	40.0	1.02
Garfield	46.3	.87	43.9	1.36	44.5	1.02
Grand	32.4	.87				
Gunnison	31.5	.87				
Hinsdale	36.2	.87				
Huerfano	29.8	.83	37.5	1.30	22.1	1.02
Jackson	20.8	.87				
Jefferson	34.5	.86	49.0	1.30	25.3	1.02
Kiowa	22.0	.87	32.5	1.29	14.9	1.02
Kit Carson	25.6	.88	48.4	1.27	19.0	1.02
La Plata	34.0	.87	38.3	1.36	16.5	1.02
Larimer	45.5	.86	74.0	1.28	39.8	1.02
Las Animas	22.0	.86	31.2	1.30	16.7	1.02
Lincoln	23.0	.86	22.0	1.29	15.6	1.02
Logan	26.3	.86	58.4	1.27	23.3	1.02
Mesa	37.4	.87	66.0	1.36	56.5	1.02
Mineral	36.2	.87				
Moffat	22.1	.87				
Montezuma	40.8	.87	44.1	1.38	17.0	1.02
Montrose	50.9	.87	64.5	1.36	47.2	1.02
Morgan	33.2	.86	76.0	1.27	20.2	1.02
Otero	37.7	.86	57.5	1.30	49.9	1.02
Ouray	35.7	.87	59.5	1.38		
Park	18.0	.83				
Phillips	32.1	.88	26.0	1.27	21.6	1.02
Pitkin	47.8	.87	33.0	1.34		
Prowers	27.2	.88	56.8	1.29	37.4	1.02
Pueblo	35.6	.86	58.2	1.30	30.5	1.02
Rio Blanco	29.9	.87	42.0	1.36		
Rio Grande	45.5	.87	51.0	1.34		
Routt	28.4	.87				
Saguache	45.5	.87	49.0	1.32		
San Miguel	49.4	.87	45.7	1.38		
Sedgwick	29.6	.88	57.5	1.27	28.1	1.02
Washington	25.8	.86	33.8	1.27	16.5	1.02
Weld	36.0	.86	73.1	1.27	22.2	1.02
Yuma	27.2	.88	26.7	1.27	20.2	1.02
CONNECTICUT						
Fairfield			59.5	$1.41		
Hartford			67.0	1.41	52.5	$1.19
Litchfield			70.5	1.41	54.4	1.19
Middlesex			66.5	1.41	50.8	1.19
New Haven			62.0	1.41	48.9	1.19

CONNECTICUT—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
New London			59.0	$1.41		
Tolland	34.0	$1.06	67.0	1.41	51.0	$1.19
Windham			64.5	1.41		
DELAWARE						
Kent	38.5	$1.06	60.0	$1.39	52.0	$1.19
New Castle	45.0	1.06	65.0	1.39	55.0	1.19
Sussex	35.7	1.06	57.7	1.39	46.0	1.19
FLORIDA						
Alachua			30.7	$1.35	36.0	$1.16
Baker			20.0	1.35		
Bay			27.0	1.35		
Bradford			25.0	1.35		
Calhoun			29.0	1.35	44.0	1.16
Citrus			22.0	1.35	38.0	1.16
Clay			30.0	1.35	41.0	1.16
Columbia			27.0	1.35	37.0	1.16
Dade			42.5	1.35	39.0	1.16
De Soto			25.0	1.35		
Dixie			26.5	1.35		
Duval			42.5	1.35		
Escambia			32.4	1.35	45.0	1.16
Flagler			34.0	1.35	41.0	1.16
Gadsden			35.2	1.35	42.0	1.16
Gilchrist			27.2	1.35	36.0	1.16
Glades			27.0	1.35		
Gulf			28.0	1.35	40.0	1.16
Hamilton			30.4	1.35	38.0	1.16
Hardee			23.0	1.35		
Hendry			50.0	1.35		
Hernando			27.5	1.35	38.0	1.16
Highlands			40.0	1.35		
Hillsborough			28.5	1.35	38.0	1.16
Holmes			25.0	1.35	36.5	1.16
Jackson			30.1	1.35	40.0	1.16
Jefferson			29.4	1.35	39.0	1.16
Lafayette			26.0	1.35	35.5	1.16
Lake			31.5	1.35	39.0	1.16
Lee			27.0	1.35	39.0	1.16
Leon			28.4	1.35	38.0	1.16
Levy			29.0	1.35	37.0	1.16
Liberty			23.1	1.35		
Madison			29.0	1.35	37.0	1.16
Manatee			28.5	1.35	39.0	1.16
Marion			29.0	1.35	37.0	1.16
Martin			40.0	1.35	39.0	1.16
Nassau			26.5	1.35	41.0	1.16
Okaloosa			27.0	1.35	39.0	1.16
Okeechobee			40.0	1.35	39.0	1.16
Orange			42.5	1.35	39.0	1.16
Osceola			37.5	1.35	39.0	1.16
Palm Beach			50.0	1.35	39.0	1.16
Pasco			32.5	1.35	38.0	1.16
Polk			30.2	1.35	38.0	1.16
Putnam			37.1	1.35	41.0	1.16
St. Johns			36.5	1.35	41.0	1.16
Santa Rosa			33.2	1.35	44.0	1.16
Seminole			40.0	1.35		
Sumter			30.0	1.35	37.0	1.16
Suwannee			27.0	1.35	37.0	1.16
Taylor			29.0	1.35		
Union			27.0	1.35		
Volusia			38.0	1.35	37.0	1.16
Wakulla			21.7	1.35		
Walton	21.5	$1.05	27.0	1.35	39.0	1.16
Washington			27.0	1.35	39.0	1.16

GEORGIA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Appling			26.9	$1.36	33.2	$1.19
Atkinson			34.7	1.36	28.2	1.19
Bacon			27.5	1.36	30.6	1.19
Baker			25.4	1.36	24.2	1.19
Baldwin	25.0	$1.05	26.0	1.36	27.8	1.19
Banks	32.8	1.05	20.5	1.36	32.2	1.19
Barrow	26.2	1.05	19.9	1.36	39.0	1.19
Bartow	36.3	1.05	25.5	1.36	19.0	1.19
Ben Hill			31.0	1.36	24.5	1.19
Berrien	32.0	1.05	33.5	1.36	30.4	1.19
Bibb	38.5	1.05	33.6	1.36	19.7	1.19
Bleckley			28.0	1.36	25.0	1.19
Brantley			33.6	1.36	25.5	1.19
Brooks			30.8	1.36	16.5	1.19
Bryan			31.2	1.36	22.0	1.19
Bulloch			29.1	1.36	22.2	1.19
Burke	25.0	1.05	25.5	1.36	28.8	1.19
Butts	25.8	1.05	26.7	1.36	45.0	1.19
Calhoun			32.6	1.36	27.5	1.19
Camden			29.6	1.36	22.0	1.19
Candler			24.1	1.36	15.8	1.19
Carroll	32.0	1.05	23.5	1.36	27.0	1.19
Catoosa	28.2	1.05	37.8	1.36	42.2	1.19
Charlton			25.4	1.36	20.0	1.19
Chatham			25.7	1.36	22.0	1.19
Chattahoochee			16.2	1.36	18.0	1.19
Chattooga			25.6	1.36	23.9	1.19
Cherokee	32.0	1.05	29.4	1.36	23.2	1.19
Clarke	40.5	1.05	26.1	1.36	35.2	1.19
Clay			31.6	1.36	25.8	1.19
Clayton	28.0	1.05	20.8	1.36	24.8	1.19
Clinch			29.8	1.36	20.0	1.19
Cobb	26.0	1.05	22.0	1.36	31.5	1.19
Coffee			33.6	1.36	20.7	1.19
Colquitt			37.6	1.36	32.8	1.19
Columbia	22.5	1.05	18.6	1.36	18.0	1.19
Cook			35.5	1.36	15.0	1.19
Coweta	36.0	1.05	24.7	1.36	16.0	1.19
Crawford	35.0	1.05	24.5	1.36	20.8	1.19
Crisp			30.9	1.36	22.2	1.19
Dade			31.6	1.36	18.0	1.19
Dawson			31.2	1.36	27.0	1.19
Decatur			30.0	1.36	28.2	1.19
De Kalb	29.0	1.05	24.2	1.36	20.4	1.19
Dodge	28.0	1.05	25.0	1.36	29.2	1.19
Dooly	45.2	1.05	26.4	1.36	20.2	1.19
Dougherty	35.0	1.05	29.4	1.36	20.3	1.19
Douglas	28.0	1.05	22.9	1.36	14.4	1.19
Early			33.2	1.36	20.8	1.19
Echols			32.8	1.36	21.5	1.19
Effingham			27.0	1.36	22.0	1.19
Elbert	27.2	1.05	21.4	1.36	24.2	1.19
Emanuel	20.8	1.05	22.7	1.36	27.5	1.19
Evans			32.8	1.36	17.6	1.19
Fannin			41.0	1.36	26.0	1.19
Fayette	28.0	1.05	25.1	1.36	35.8	1.19
Floyd			29.8	1.36	26.8	1.19
Forsyth	33.0	1.05	28.3	1.36	27.0	1.19
Franklin	30.0	1.05	24.0	1.36	16.0	1.19
Fulton	43.5	1.05	25.5	1.36	45.8	1.19
Gilmer			41.3	1.36	26.0	1.19
Glascock			20.4	1.36	17.0	1.19
Glynn			21.2	1.36	22.0	1.19
Gordon			26.3	1.36	28.0	1.19
Grady			34.6	1.36	19.0	1.19
Greene	26.3	1.05	20.4	1.36	20.0	1.19
Gwinnett	27.8	1.05	21.8	1.36	20.8	1.19
Habersham	23.0	1.05	33.4	1.36	28.0	1.19
Hall	27.0	1.05	27.6	1.36	31.0	1.19
Hancock	28.1	1.05	17.4	1.36	26.5	1.19
Haralson	28.0	1.05	22.2	1.36	21.2	1.19
Harris	21.8	1.05	19.9	1.36	16.5	1.19
Hart	28.8	1.05	23.0	1.36	20.8	1.19
Heard			22.8	1.36	35.7	1.19
Henry	21.1	1.05	24.7	1.36	16.2	1.19

GEORGIA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Houston	37.8	$1.05	34.9	$1.36	21.2	$1.19
Irwin			34.5	1.36	23.8	1.19
Jackson	32.5	1.05	24.8	1.36	33.2	1.19
Jasper	35.0	1.05	26.8	1.36	28.0	1.19
Jeff Davis			26.8	1.36	28.4	1.19
Jefferson	24.2	1.05	26.5	1.36	18.8	1.19
Jenkins			25.2	1.36	24.0	1.19
Johnson	23.3	1.05	20.5	1.36	18.0	1.19
Jones	22.4	1.05	22.2	1.36	32.2	1.19
Lamar	29.1	1.05	25.6	1.36	15.0	1.19
Lanier			30.4	1.36	15.6	1.19
Laurens			23.5	1.36	24.2	1.19
Lee	38.2	1.05	33.2	1.36	22.2	1.19
Liberty			24.6	1.36	20.0	1.19
Lincoln	30.3	1.05	18.8	1.36	15.2	1.19
Long			31.2	1.36	20.0	1.19
Lowndes			30.0	1.36	22.0	1.19
Lumpkin			40.2	1.36	27.0	1.19
McDuffie			19.4	1.36	19.0	1.19
McIntosh			23.8	1.36	20.0	1.19
Macon	37.8	1.05	28.6	1.36	30.0	1.19
Madison	27.8	1.05	21.9	1.36	20.5	1.19
Marion	22.0	1.05	19.9	1.36	26.0	1.19
Meriwether	32.0	1.05	25.2	1.36	34.8	1.19
Miller			27.6	1.36	18.2	1.19
Mitchell			31.2	1.36	27.5	1.19
Monroe	32.6	1.05	24.6	1.36	30.0	1.19
Montgomery	29.3	1.05	25.7	1.36	17.2	1.19
Morgan	37.5	1.05	21.5	1.36	28.5	1.19
Murray	24.5	1.05	29.8	1.36	20.9	1.19
Muscogee			20.6	1.36	18.0	1.19
Newton	30.2	1.05	26.1	1.36	30.0	1.19
Oconee	31.5	1.05	22.4	1.36	17.8	1.19
Oglethorpe	29.5	1.05	19.2	1.36	18.0	1.19
Paulding	29.0	1.05	21.3	1.36	20.0	1.19
Peach	42.2	1.05	38.7	1.36	24.0	1.19
Pickens			34.3	1.36	26.0	1.19
Pierce			31.9	1.36	22.7	1.19
Pike	27.0	1.05	24.4	1.36	22.8	1.19
Polk	25.5	1.05	25.9	1.36	22.2	1.19
Pulaski	22.3	1.05	27.0	1.36	25.8	1.19
Putnam			19.6	1.36	19.0	1.19
Quitman			27.6	1.36	26.6	1.19
Rabun			45.1	1.36	30.0	1.19
Randolph	23.0	1.05	29.0	1.36	27.2	1.19
Richmond	20.7	1.05	21.1	1.36	14.5	1.19
Rockdale	26.5	1.05	24.3	1.36	24.5	1.19
Schley	21.5	1.05	27.8	1.36	40.0	1.19
Screven	33.9	1.05	30.4	1.36	20.0	1.19
Seminole			28.0	1.36	29.5	1.19
Spalding	29.0	1.05	29.1	1.36	28.8	1.19
Stephens	31.0	1.05	28.4	1.36	28.2	1.19
Stewart			24.0	1.36	21.0	1.19
Sumter	22.0	1.05	33.6	1.36	23.8	1.19
Talbot	37.0	1.05	19.8	1.36	30.2	1.19
Taliaferro	26.0	1.05	15.6	1.36	18.0	1.19
Tattnall			30.8	1.36	25.8	1.19
Taylor			27.2	1.36	27.5	1.19
Telfair			21.1	1.36	30.8	1.19
Terrell	23.0	1.05	34.4	1.36	15.8	1.19
Thomas			36.6	1.36	23.5	1.19
Tift	32.0	1.05	33.0	1.36	29.5	1.19
Toombs			29.6	1.36	24.8	1.19
Towns			47.4	1.36	30.0	1.19
Treutlen	20.9	1.05	21.0	1.36	20.0	1.19
Troup			23.2	1.36	22.0	1.19
Turner			27.2	1.36	23.0	1.19
Twiggs			21.9	1.36	20.2	1.19
Union			44.3	1.36	26.2	1.19
Upson	25.6	1.05	22.0	1.36	24.0	1.19
Walker	45.0	1.05	30.6	1.36	40.0	1.19
Walton	37.0	1.05	23.5	1.36	33.8	1.19
Ware			35.4	1.36	30.0	1.19
Warren	30.0	1.05	21.4	1.36	19.5	1.19
Washington	25.2	1.05	26.2	1.36	18.0	1.19

GEORGIA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Wayne			36.4	$1.36	34.0	$1.19
Webster			22.0	1.36	22.0	1.19
Wheeler	28.0	$1.05	22.7	1.36	24.0	1.19
White	23.6	1.05	37.0	1.36	27.0	1.19
Whitfield	48.0	1.05	28.2	1.36	28.6	1.19
Wilcox	32.4	1.05	26.8	1.36	32.8	1.19
Wilkes	23.4	1.05	19.7	1.36	20.8	1.19
Wilkinson			18.8	1.36	37.0	1.19
Worth			30.2	1.36	21.8	1.19

IDAHO

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Ada	38.9	$0.97	76.2	$1.34	58.0	$1.02
Adams	33.9	.97	45.0	1.34		
Bannock	29.3	.97	60.0	1.34		
Bear Lake	31.8	.97				
Benewah	27.0	1.00				
Bingham	37.6	.97	60.0	1.34	48.0	1.02
Blaine	37.0	.97	50.0	1.34		
Boise	31.3	.97				
Bonner	26.6	.94	35.0	1.34		
Bonneville	34.3	.97	55.0	1.34		
Boundary	39.5	.94				
Butte	43.1	.97				
Camas	22.8	.97				
Canyon	56.7	.97	77.5	1.34	58.0	1.02
Caribou	32.4	.97	48.0	1.34		
Cassia	37.3	.97	65.0	1.34		
Clark	31.1	.97	40.0	1.34	38.0	1.02
Clearwater	33.5	.98				
Custer	41.8	.97	35.0	1.34		
Elmore	34.2	.97	72.0	1.34	58.0	1.02
Franklin	36.0	.97	60.0	1.34		
Fremont	32.8	.97	45.0	1.34		
Gem	35.2	.97	72.5	1.34		
Gooding	46.0	.97	62.1	1.34	55.0	1.02
Idaho	31.7	.97	36.0	1.34		
Jefferson	40.8	.97	50.0	1.34	38.0	1.02
Jerome	58.2	.97	69.2	1.34		
Kootenai	28.9	1.00	40.0	1.34		
Latah	36.4	1.00	36.0	1.34		
Lemhi	38.3	.97	35.0	1.34		
Lewis	35.2	.98				
Lincoln	54.1	.97	58.2	1.34	45.0	1.02
Madison	31.1	.97	50.0	1.34		
Minidoka	48.2	.97	65.0	1.34		
Nez Perce	37.9	1.00	36.0	1.34		
Oneida	26.8	.97	55.0	1.34		
Owyhee	55.0	.97	81.2	1.34	60.0	1.02
Payette	41.5	.97	74.5	1.34	57.0	1.02
Power	19.6	.97	60.0	1.34		
Teton	28.1	.97				
Twin Falls	52.2	.97	75.8	1.34	57.0	1.02
Valley	29.4	.97				
Washington	36.6	.97	71.0	1.34	56.0	1.02

ILLINOIS

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adams	25.7	$0.99	62.7	$1.25	62.2	$1.09
Alexander	29.8	1.01	47.0	1.28	45.1	1.09
Bond	24.1	1.03	51.6	1.27	47.0	1.09
Boone	41.5	1.03	73.0	1.26		
Brown	25.4	.99	58.2	1.26	54.1	1.09
Bureau	35.0	1.01	78.2	1.26	70.5	1.09
Calhoun	30.0	1.02	57.9	1.26	52.0	1.09
Carroll	40.5	1.01	78.4	1.24	62.7	1.09
Cass	28.2	1.01	70.2	1.27	63.2	1.09
Champaign	38.8	1.02	74.0	1.25	68.2	1.09
Christian	34.1	1.01	70.6	1.27	65.0	1.09
Clark	24.6	1.01	59.8	1.26	55.0	1.09
Clay	23.4	1.01	46.3	1.27	43.0	1.09

ILLINOIS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Clinton	27.9	$1.04	50.4	$1.27	50.5	$1.09
Coles	31.8	1.01	65.4	1.25	64.5	1.09
Cook	38.5	1.07	62.9	1.27		
Crawford	24.0	.99	52.4	1.27	49.0	1.09
Cumberland	23.5	1.01	59.0	1.26	52.5	1.09
De Kalb	40.7	1.04	74.0	1.26	69.1	1.09
De Witt	30.0	1.01	74.5	1.26	66.5	1.09
Douglas	37.0	1.03	74.0	1.25	66.5	1.09
Du Page	37.4	1.05	68.6	1.27	61.1	1.09
Edgar	36.9	1.01	69.4	1.25	63.1	1.09
Edwards	25.0	1.00	55.6	1.28	51.6	1.09
Effingham	25.5	1.01	54.2	1.27	49.3	1.09
Fayette	23.1	1.01	51.8	1.27	50.4	1.09
Ford	31.0	1.01	67.8	1.25	65.0	1.09
Franklin	28.6	1.01	43.2	1.28	40.2	1.09
Fulton	26.0	1.01	65.2	1.26	59.1	1.09
Gallatin	30.2	.98	51.2	1.28	48.1	1.09
Greene	32.8	1.03	62.8	1.27	58.0	1.09
Grundy	34.0	1.03	71.8	1.26	66.0	1.09
Hamilton	24.0	1.01	44.7	1.28	44.8	1.09
Hancock	27.4	.98	64.6	1.25	58.3	1.09
Hardin	25.2	.95	40.9	1.29	38.8	1.09
Henderson	27.0	.99	72.2	1.24	68.8	1.09
Henry	40.6	1.00	72.8	1.25	66.0	1.09
Iroquois	32.2	1.05	68.6	1.26	61.3	1.09
Jackson	28.8	1.01	48.8	1.28	45.0	1.09
Jasper	23.5	1.00	56.0	1.27	51.1	1.09
Jefferson	25.7	1.01	46.7	1.27	42.6	1.09
Jersey	34.9	1.04	58.8	1.27	53.5	1.09
Jo Daviess	35.0	1.00	70.1	1.24		
Johnson	24.4	.98	41.8	1.28	43.5	1.09
Kane	35.8	1.05	75.4	1.27	69.1	1.09
Kankakee	35.8	1.06	70.0	1.26	63.0	1.09
Kendall	33.5	1.04	73.3	1.26	67.2	1.09
Knox	32.5	1.00	70.2	1.26	66.1	1.09
Lake	39.0	1.07	61.9	1.27	55.0	1.09
La Salle	42.8	1.03	76.5	1.26	69.0	1.09
Lawrence	31.8	1.01	48.5	1.28	45.4	1.09
Lee	35.0	1.02	77.6	1.26	57.8	1.09
Livingston	34.3	1.02	72.9	1.26	66.6	1.09
Logan	36.0	1.01	76.4	1.27	69.0	1.09
McDonough	27.0	.99	68.2	1.25	65.6	1.09
McHenry	36.6	1.04	68.4	1.26		
McLean	31.2	1.01	77.5	1.26	71.5	1.09
Macon	29.4	1.01	80.7	1.26	71.3	1.09
Macoupin	32.5	1.04	60.1	1.27	54.5	1.09
Madison	27.6	1.04	56.6	1.27	49.5	1.09
Marion	27.8	1.01	46.3	1.27	42.1	1.09
Marshall	32.0	1.01	72.6	1.27	69.0	1.09
Mason	24.5	1.01	65.3	1.27	58.2	1.09
Massac	26.8	1.01	46.2	1.28	41.1	1.09
Menard	32.0	1.01	67.6	1.27	58.1	1.09
Mercer	30.0	.99	69.0	1.24	65.0	1.09
Monroe	31.8	1.03	58.7	1.28	52.6	1.09
Montgomery	29.2	1.02	63.7	1.27	66.5	1.09
Morgan	31.0	1.01	72.2	1.27	65.1	1.09
Moultrie	29.5	1.02	70.7	1.25	64.1	1.09
Ogle	37.2	1.02	75.2	1.25	69.5	1.09
Peoria	31.0	1.01	68.4	1.26	58.1	1.09
Perry	32.0	1.01	41.1	1.28	40.8	1.09
Piatt	30.5	1.01	82.8	1.25	72.0	1.09
Pike	30.0	1.01	61.0	1.26	57.4	1.09
Pope	25.2	.97	39.4	1.28	37.0	1.09
Pulaski	27.3	1.01	46.2	1.28	45.1	1.09
Putnam	32.0	1.01	72.6	1.26	69.0	1.09
Randolph	29.6	1.01	50.6	1.28	53.5	1.09
Richland	24.9	1.00	48.4	1.28	46.2	1.09
Rock Island	32.0	1.00	67.8	1.24	69.5	1.09
St. Clair	29.2	1.04	56.6	1.28	53.6	1.09
Saline	27.6	.98	47.4	1.28	45.0	1.09
Sangamon	31.5	1.01	70.2	1.27	61.5	1.09
Schuyler	27.8	1.01	60.9	1.26	62.0	1.09
Scott	30.5	1.01	64.0	1.27	59.0	1.09
Shelby	24.1	1.02	62.7	1.26	62.8	1.09
Stark	31.0	1.01	77.7	1.26		

ILLINOIS—Continued

County	Barley		Corn		Grain sorghum	
	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate
Stephenson	38.5	$1.01	77.6	$1.25	62.1	$1.09
Tazewell	33.0	1.01	72.0	1.27	68.1	1.09
Union	28.1	1.01	51.2	1.28	49.0	1.09
Vermilion	35.0	1.04	70.6	1.25	61.9	1.09
Wabash	28.2	.99	55.3	1.28	50.5	1.09
Warren	33.0	1.00	76.1	1.25	74.1	1.09
Washington	32.2	1.01	51.0	1.28	54.9	1.09
Wayne	23.1	1.00	46.4	1.27	41.5	1.09
White	24.7	.98	53.3	1.28	49.1	1.09
Whiteside	46.5	1.01	76.4	1.24	68.3	1.09
Will	41.5	1.05	63.6	1.27	59.9	1.09
Williamson	28.5	1.01	37.6	1.28	37.1	1.09
Winnebago	38.1	1.01	73.0	1.25		
Woodford	31.0	1.01	76.3	1.27	61.0	1.09

INDIANA

County	Barley		Corn		Grain sorghum	
	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate
Adams	39.4	$0.98	61.4	$1.26	58.0	$1.10
Allen	38.4	.98	65.0	1.26	50.0	1.10
Bartholomew	27.1	.95	59.3	1.27	66.0	1.10
Benton	39.0	1.01	77.3	1.26	49.4	1.10
Blackford	32.0	.99	61.1	1.26	52.5	1.10
Boone	37.5	.98	69.0	1.26	68.0	1.10
Brown	28.0	.95	51.6	1.26	39.0	1.10
Carroll	36.8	1.00	76.4	1.26	70.5	1.10
Cass	36.3	1.00	70.6	1.26	53.0	1.10
Clark	31.4	.93	52.2	1.28	46.0	1.10
Clay	29.4	1.00	66.3	1.25	41.4	1.10
Clinton	36.5	1.00	77.8	1.26	66.0	1.10
Crawford	27.2	.93	47.0	1.28	39.0	1.10
Daviess	36.9	.96	67.0	1.27	55.0	1.10
Dearborn	32.2	.93	56.5	1.28	46.0	1.10
Decatur	38.9	.95	68.0	1.27	66.0	1.10
De Kalb	28.9	.98	61.1	1.26	45.0	1.10
Delaware	30.8	.98	64.8	1.26	45.0	1.10
Dubois	29.6	.93	61.7	1.27	54.0	1.10
Elkhart	32.6	1.00	60.0	1.26	51.5	1.10
Fayette	32.0	.94	66.9	1.26	50.0	1.10
Floyd	31.5	.93	50.2	1.28	39.0	1.10
Fountain	26.9	.98	67.1	1.25	66.6	1.10
Franklin	32.0	.95	63.2	1.27	52.5	1.10
Fulton	32.0	1.01	62.4	1.26	50.0	1.10
Gibson	34.0	1.00	59.7	1.28	57.6	1.10
Grant	35.0	.99	69.0	1.26	62.0	1.10
Greene	30.2	.96	56.8	1.26	55.0	1.10
Hamilton	34.2	.98	68.7	1.26	62.0	1.10
Hancock	35.8	.97	63.2	1.26	61.0	1.10
Harrison	29.0	.93	57.1	1.28	48.7	1.10
Hendricks	30.6	.98	70.8	1.26	62.0	1.10
Henry	36.0	.98	69.8	1.26	45.0	1.10
Howard	35.8	1.00	80.0	1.26	63.5	1.10
Huntington	34.5	.98	64.2	1.26	50.0	1.10
Jackson	30.0	.95	56.0	1.27	57.7	1.10
Jasper	39.0	1.03	72.0	1.26	55.0	1.10
Jay	31.4	.98	53.8	1.26	45.0	1.10
Jefferson	29.6	.93	54.9	1.28	46.0	1.10
Jennings	29.0	.94	52.7	1.27	46.0	1.10
Johnson	35.3	.96	62.2	1.26	77.5	1.10
Knox	34.3	.99	58.1	1.27	58.8	1.10
Kosciusko	31.7	1.00	62.0	1.26	53.0	1.10
Lagrange	38.8	.99	62.0	1.26	45.0	1.10
Lake	31.1	1.06	66.7	1.26	50.0	1.10
La Porte	38.4	1.02	70.6	1.26	50.0	1.10
Lawrence	29.2	.96	53.5	1.27	52.7	1.10
Madison	39.8	.98	72.0	1.26	62.0	1.10
Marion	40.8	.97	61.2	1.26	62.5	1.10
Marshall	33.0	1.00	63.3	1.26	50.7	1.10
Martin	29.2	.95	57.3	1.27	50.5	1.10
Miami	38.9	1.00	70.6	1.26	53.0	1.10
Monroe	28.2	.96	54.1	1.26	38.4	1.10
Montgomery	29.4	.99	71.1	1.25	56.2	1.10
Morgan	29.9	.96	60.7	1.26	62.0	1.10
Newton	43.0	1.05	74.6	1.26	55.0	1.10

INDIANA—Continued

County	Barley		Corn		Grain sorghum	
	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate
Noble	35.3	$0.98	61.4	$1.26	45.0	$1.10
Ohio	29.5	.93	52.1	1.28	46.0	1.10
Orange	28.2	.93	55.0	1.27	62.6	1.10
Owen	26.7	.96	56.9	1.25	54.5	1.10
Parke	32.8	.98	64.6	1.25	52.5	1.10
Perry	28.8	.90	47.2	1.28	46.0	1.10
Pike	30.4	.95	52.0	1.27	52.8	1.10
Porter	39.5	1.03	72.4	1.26	55.0	1.10
Posey	30.4	1.00	61.5	1.28	51.5	1.10
Pulaski	33.4	1.02	65.8	1.26	55.0	1.10
Putnam	27.3	.97	65.8	1.26	48.5	1.10
Randolph	34.0	.98	62.1	1.26	45.0	1.10
Ripley	29.1	.93	55.3	1.27	46.0	1.10
Rush	33.0	.96	66.8	1.26	68.0	1.10
St. Joseph	35.2	1.00	64.0	1.26	50.0	1.10
Scott	28.2	.93	50.2	1.28	46.0	1.10
Shelby	29.8	.96	63.0	1.26	62.0	1.10
Spencer	30.2	.90	48.5	1.28	52.6	1.10
Starke	35.0	1.01	64.9	1.26	52.5	1.10
Steuben	38.6	.98	61.8	1.26	45.0	1.10
Sullivan	30.7	1.00	56.3	1.27	56.3	1.10
Switzerland	33.8	.91	52.8	1.28	46.0	1.10
Tippecanoe	32.3	1.00	76.4	1.25	52.3	1.10
Tipton	37.2	.99	81.2	1.26	64.8	1.10
Union	32.5	.96	71.8	1.26	50.0	1.10
Vanderburgh	31.4	1.03	60.4	1.28	59.0	1.10
Vermillion	30.2	1.04	63.6	1.25	57.5	1.10
Vigo	30.8	1.04	58.2	1.25	50.8	1.10
Wabash	38.4	1.00	69.6	1.26	53.0	1.10
Warren	35.0	1.03	72.3	1.25	52.5	1.10
Warrick	29.7	.92	51.0	1.28	48.2	1.10
Washington	30.0	.93	55.0	1.28	49.5	1.10
Wayne	32.8	.98	65.2	1.26	52.5	1.10
Wells	35.2	.98	63.4	1.26	50.0	1.10
White	35.6	1.02	76.0	1.26	57.4	1.10
Whitley	31.6	.99	60.1	1.26	50.0	1.10

IOWA

County	Barley		Corn		Grain sorghum	
	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate
Adair	32.4	$0.97	62.4	$1.22	54.5	$1.12
Adams	26.0	.98	58.8	1.22	51.0	1.14
Allamakee	39.4	.95	66.2	1.20	53.5	1.05
Appanoose	25.8	.97	51.8	1.23	43.2	1.13
Audubon	27.2	.99	66.5	1.20	54.0.	1.13
Benton	34.7	.97	74.0	1.22	52.0	1.05
Black Hawk	43.6	.95	70.2	1.20	48.4	1.05
Boone	32.2	.96	69.7	1.29	50.0	1.10
Bremer	46.2	95	66.5	1.19	43.8	1.05
Buchanan	36.6	.96	66.1	1.21	53.5	1.05
Buena Vista	39.4	.95	70.6	1.17	71.8	1.10
Butler	28.3	.94	65.9	1.19	50.6	1.05
Calhoun	38.4	.97	69.2	1.18	55.6	1.11
Carroll	35.1	.99	69.4	1.19	57.9	1.13
Cass	33.0	.98	65.9	1.21	69.6	1.13
Cedar	43.2	.98	74.3	1.24	50.0	1.05
Cerro Gordo	42.0	.95	65.4	1.17	59.0	1.06
Cherokee	36.6	.96	66.8	1.18	68.4	1.11
Chickasaw	36.0	.95	61.7	1.19	46.0	1.05
Clarke	25.0	.96	49.8	1.22	47.6	1.13
Clay	38.4	.95	62.0	1.17	57.2	1.10
Clayton	37.2	.96	63.6	1.21	51.5	1.05
Clinton	36.0	.99	73.8	1.24	67.8	1.05
Crawford	31.4	.99	67.5	1.19	64.6	1.14
Dallas	29.8	.96	65.9	1.20	53.0	1.10
Davis	24.7	.97	51.0	1.23	42.7	1.11
Decatur	20.1	.94	46.9	1.22	32.6	1.14
Delaware	36.6	.97	67.7	1.22	52.5	1.05
Des Moines	36.0	.98	71.8	1.24	53.6	1.08
Dickinson	30.0	.94	57.1	1.16	57.6	1.09
Dubuque	43.0	.98	69.9	1.23	59.5	1.05
East Pottawattamie	29.5	1.02	67.6	1.22	62.6	1.05
Emmet	38.5	.96	60.1	1.16	52.2	1.09
Fayette	36.5	.96	64.4	1.21	43.4	1.05

IOWA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Floyd	32.6	$0.95	64.5	$1.18	45.0	$1.05
Franklin	38.2	.94	68.9	1.18	51.0	1.07
Fremont	24.5	1.01	61.5	1.22	66.4	1.14
Greene	33.6	.97	69.2	1.19	52.9	1.11
Grundy	38.1	.95	76.6	1.19	62.0	1.06
Guthrie	25.3	.97	62.8	1.20	57.0	1.12
Hamilton	41.8	.95	72.2	1.18	53.0	1.09
Hancock	41.6	.95	64.6	1.17	55.8	1.07
Hardin	40.8	.94	73.6	1.19	50.0	1.07
Harrison	22.6	1.01	63.0	1.21	52.3	1.14
Henry	29.2	.97	63.3	1.24	44.1	1.09
Howard	34.8	.96	58.5	1.19	46.5	1.05
Humboldt	52.5	.95	66.4	1.17	60.6	1.09
Ida	34.8	.97	69.0	1.18	69.0	1.11
Iowa	29.6	.96	66.0	1.22	49.7	1.05
Jackson	32.2	.99	69.6	1.24	57.1	1.05
Jasper	27.1	.94	67.2	1.20	53.0	1.09
Jefferson	25.8	.96	58.0	1.23	44.2	1.10
Johnson	34.6	.98	67.0	1.23	69.0	1.05
Jones	32.0	.98	73.5	1.23	61.8	1.05
Keokuk	24.6	.95	64.6	1.22	35.8	1.09
Kossuth	35.3	.95	63.7	1.17	51.6	1.07
Lee	27.0	.98	62.2	1.24	32.7	1.10
Linn	34.8	.97	68.2	1.22	59.2	1.05
Louisa	----------	----------	62.0	1.24	35.6	1.05
Lucas	----------	----------	50.6	1.22	41.2	1.13
Lyon	34.8	.95	57.8	1.16	62.0	1.11
Madison	32.9	.96	62.0	1.21	55.1	1.11
Mahaska	38.7	.95	64.8	1.20	52.9	1.10
Marion	31.2	.94	60.2	1.21	55.3	1.11
Marshall	32.2	.95	72.2	1.19	64.8	1.08
Mills	26.2	1.02	62.8	1.22	62.2	1.14
Mitchell	40.6	.96	63.3	1.17	61.7	1.05
Monona	26.6	1.00	59.2	1.20	53.0	1.14
Monroe	21.2	.96	49.4	1.22	48.4	1.11
Montgomery	30.6	1.00	60.4	1.22	57.2	1.14
Muscatine	37.0	.98	67.0	1.24	39.8	1.05
O'Brien	46.0	.96	65.4	1.17	70.8	1.11
Osceola	38.8	.95	59.0	1.16	67.8	1.11
Page	23.4	1.00	60.3	1.22	58.2	1.14
Palo Alto	45.4	.94	62.0	1.16	48.8	1.09
Plymouth	34.3	.98	58.0	1.18	59.0	1.11
Pocahontas	48.2	.95	66.7	1.17	61.2	1.09
Polk	36.8	.96	65.5	1.20	57.0	1.10
Poweshiek	27.0	.95	65.8	1.20	54.8	1.05
Ringgold	25.0	.95	49.7	1.22	41.1	1.14
Sac	34.8	.97	71.0	1.18	68.5	1.11
Scott	34.4	.99	73.5	1.24	55.6	1.05
Shelby	30.8	1.00	73.0	1.20	68.4	1.14
Sioux	35.6	.97	62.2	1.17	68.4	1.11
Story	40.4	.96	71.5	1.19	57.8	1.09
Tama	28.8	.95	73.8	1.20	55.0	1.06
Taylor	29.6	.98	51.1	1.22	45.2	1.15
Union	24.4	.97	54.0	1.22	48.0	1.14
Van Buren	29.4	.97	55.8	1.23	45.6	1.10
Wapello	24.0	.96	57.9	1.22	55.2	1.11
Warren	28.0	.96	58.5	1.21	50.0	1.11
Washington	30.6	.97	63.0	1.23	49.0	1.08
Wayne	23.7	.95	49.4	1.22	32.7	1.14
Webster	50.0	.96	69.2	1.18	57.5	1.10
West Pottawattamie	29.5	1.02	63.6	1.22	59.0	1.05
Winnebago	39.1	.96	65.6	1.17	51.6	1.06
Winneshiek	34.7	.95	61.9	1.20	49.0	1.05
Woodbury	27.9	.98	59.0	1.18	50.6	1.11
Worth	49.0	.96	62.8	1.17	45.5	1.05
Wright	39.8	.94	66.4	1.17	60.4	1.08

KANSAS

Allen	30.5	$0.99	46.0	$1.27	46.5	$1.11
Anderson	32.0	1.01	53.5	1.26	52.0	1.13
Atchison	21.5	1.02	47.5	1.25	47.5	1.16
Barber	24.5	.94	27.8	1.29	27.0	1.05

KANSAS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Barton	22.2	$0.94	23.0	$1.26	36.1	$1.05
Bourbon	29.5	1.00	44.0	1.27	47.0	1.12
Brown	26.5	1.00	55.0	1.23	57.0	1.13
Butler	25.0	.96	46.0	1.27	47.0	1.07
Chase	24.4	.97	47.0	1.25	46.5	1.09
Chautauqua	25.5	.97	41.5	1.29	39.5	1.09
Cherokee	29.5	.99	37.5	1.29	42.5	1.10
Cheyenne	34.8	.90	29.4	1.25	21.0	1.02
Clark	18.0	.91	35.0	1.29	23.5	1.04
Clay	25.4	.97	40.5	1.22	37.8	1.09
Cloud	23.5	.96	41.0	1.22	41.2	1.08
Coffey	28.5	.99	46.5	1.26	43.5	1.11
Comanche	21.4	.92	30.6	1.29	23.0	1.05
Cowley	27.0	.96	50.5	1.29	47.5	1.07
Crawford	29.0	.99	43.5	1.28	45.5	1.11
Decatur	30.5	.92	25.0	1.24	28.0	1.04
Dickinson	25.2	.96	36.0	1.24	38.0	1.08
Doniphan	31.2	1.00	55.5	1.24	58.0	1.13
Douglas	26.0	1.02	54.0	1.25	56.5	1.15
Edwards	23.7	.94	26.0	1.27	29.9	1.05
Elk	23.5	.97	45.0	1.29	39.0	1.09
Ellis	23.2	.94	28.5	1.25	28.5	1.05
Ellsworth	24.8	.95	32.0	1.25	35.5	1.06
Finney	29.5	.91	68.0	1.28	45.6	1.03
Ford	23.0	.93	31.2	1.28	29.6	1.04
Franklin	30.0	1.02	47.0	1.26	48.0	1.14
Geary	27.0	.97	45.0	1.24	46.5	1.09
Gove	29.0	.92	30.5	1.27	34.0	1.03
Graham	25.7	.94	29.9	1.24	28.4	1.04
Grant	24.5	.90	83.0	1.28	40.8	1.05
Gray	20.0	.91	55.5	1.28	39.0	1.04
Greeley	28.5	.90	64.0	1.28	19.0	1.02
Greenwood	24.2	.98	44.0	1.27	39.0	1.09
Hamilton	29.0	.90	46.5	1.28	23.2	1.02
Harper	22.0	.95	28.5	1.29	33.0	1.06
Harvey	24.5	.96	34.5	1.27	44.4	1.07
Haskell	25.0	.91	73.5	1.28	58.4	1.05
Hodgeman	20.5	.93	27.8	1.28	27.5	1.04
Jackson	24.0	1.00	40.5	1.24	44.5	1.13
Jefferson	25.5	1.02	46.5	1.25	46.0	1.14
Jewell	25.0	.95	41.0	1.21	39.0	1.06
Johnson	28.0	1.02	50.0	1.26	55.5	1.15
Kearny	26.5	.90	54.6	1.28	38.2	1.02
Kingman	21.5	.95	29.0	1.28	29.0	1.06
Kiowa	22.4	.94	28.0	1.28	27.3	1.05
Labette	28.5	.99	37.5	1.29	42.0	1.10
Lane	27.5	.92	67.5	1.28	29.9	1.03
Leavenworth	22.0	1.02	50.0	1.26	52.0	1.16
Lincoln	22.5	.95	34.3	1.24	38.0	1.06
Linn	30.0	1.02	47.0	1.27	47.0	1.14
Logan	25.5	.91	49.5	1.27	24.9	1.02
Lyon	25.0	.99	41.5	1.25	42.0	1.10
McPherson	24.5	.95	39.0	1.25	40.0	1.06
Marion	25.5	.96	36.0	1.25	36.5	1.07
Marshall	27.2	.99	41.0	1.22	48.5	1.10
Meade	20.4	.91	71.0	1.29	37.6	1.04
Miami	29.0	1.02	47.5	1.26	45.0	1.14
Mitchell	23.5	.95	38.6	1.23	39.1	1.06
Montgomery	28.0	.99	42.5	1.29	47.0	1.10
Morris	23.0	.97	38.0	1.25	41.0	1.09
Morton	22.5	.88	55.2	1.29	27.4	1.07
Nemaha	24.5	.99	41.0	1.23	49.0	1.11
Neosho	28.0	.99	44.0	1.28	44.5	1.11
Ness	23.0	.93	32.7	1.28	28.8	1.04
Norton	26.0	.94	23.9	1.23	25.0	1.05
Osage	26.0	1.00	44.0	1.25	45.5	1.12
Osborne	22.0	.95	45.5	1.23	34.0	1.06
Ottawa	25.0	.96	36.6	1.23	36.0	1.07
Pawnee	25.0	.94	43.8	1.27	33.6	1.05
Phillips	25.0	.94	30.5	1.22	28.0	1.05
Pottawatomie	23.6	.99	44.0	1.23	47.5	1.11
Pratt	22.4	.94	29.5	1.28	30.2	1.05
Rawlins	32.0	.91	26.0	1.25	24.4	1.02
Reno	24.0	.95	30.5	1.27	35.7	1.06
Republic	25.5	.96	42.0	1.21	45.0	1.08

KANSAS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Rice	24.0	$0.95	30.0	$1.26	38.6	$1.06
Riley	26.7	.99	42.5	1.22	45.0	1.10
Rooks	24.5	.94	29.5	1.24	29.5	1.05
Rush	22.0	.94	50.5	1.26	33.2	1.05
Russell	21.0	.94	29.0	1.24	34.5	1.05
Saline	26.0	.95	36.5	1.24	39.4	1.06
Scott	27.0	.91	74.0	1.28	42.2	1.02
Sedgwick	26.0	.96	42.5	1.28	46.3	1.07
Seward	20.6	.89	72.0	1.29	30.4	1.07
Shawnee	24.5	1.00	49.0	1.24	48.5	1.12
Sheridan	31.7	.92	31.8	1.24	33.6	1.03
Sherman	32.0	.90	52.0	1.26	23.4	1.02
Smith	25.0	.95	32.0	1.21	32.0	1.06
Stafford	23.0	.94	27.1	1.27	33.9	1.05
Stanton	26.0	.89	63.0	1.28	39.8	1.05
Stevens	18.5	.89	59.4	1.29	28.4	1.07
Sumner	26.0	.96	41.5	1.29	45.0	1.07
Thomas	31.0	.91	36.0	1.26	27.6	1.02
Trego	27.1	.93	26.7	1.27	30.5	1.04
Wabaunsee	21.5	.99	45.0	1.24	47.0	1.11
Wallace	24.0	.90	43.0	1.27	25.7	1.02
Washington	28.3	.97	41.5	1.22	48.2	1.09
Wichita	29.0	.90	66.0	1.28	38.6	1.02
Wilson	27.5	.99	46.5	1.28	46.0	1.10
Woodson	26.0	.99	44.5	1.27	45.0	1.11
Wyandotte	26.2	1.02	54.5	1.26	47.0	1.16

KENTUCKY

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adair	28.8	$1.00	40.0	$1.33	30.5	$1.16
Allen	31.0	1.00	40.0	1.33	31.5	1.16
Anderson	25.2	1.00	45.5	1.32	34.0	1.16
Ballard	32.8	1.00	45.0	1.29	39.0	1.16
Barren	29.2	1.00	44.2	1.32	37.8	1.16
Bath	22.2	1.00	48.8	1.34		
Bell			43.5	1.36		
Boone			51.2	1.29		
Bourbon	34.8	1.00	61.5	1.33	59.8	1.16
Boyd			51.0	1.33		
Boyle	32.0	1.00	54.0	1.33	31.8	1.16
Bracken	33.2	1.00	60.8	1.31		
Breathitt	29.0	1.00	36.0	1.36		
Breckenridge	31.8	1.00	44.5	1.29	46.0	1.16
Bullitt	32.2	1.00	46.5	1.30	30.5	1.16
Butler	23.5	1.00	37.8	1.31	46.5	1.16
Caldwell	31.8	1.00	42.0	1.31	44.5	1.16
Calloway	34.8	1.00	41.5	1.30	46.8	1.16
Campbell	28.2	1.00	49.2	1.29		
Carlisle	28.8	1.00	42.0	1.29	34.0	1.16
Carroll	31.0	1.00	49.2	1.29	31.5	1.16
Carter			39.0	1.33		
Casey	37.0	1.00	42.5	1.33	40.0	1.16
Christian	33.5	1.00	53.2	1.32	50.2	1.16
Clark	27.0	1.00	59.2	1.34	31.8	1.16
Clay			38.0	1.35		
Clinton	34.8	1.00	41.5	1.34	30.8	1.16
Crittenden	27.8	1.00	40.0	1.29	28.8	1.16
Cumberland	36.0	1.00	41.0	1.33	53.0	1.16
Daviess	27.5	1.00	50.0	1.29	45.0	1.16
Edmonson	22.5	1.00	37.8	1.31	46.5	1.16
Elliott			40.8	1.34		
Estill			42.0	1.34		
Fayette	35.0	1.00	62.0	1.33	66.2	1.16
Fleming	27.0	1.00	57.8	1.32	55.0	1.16
Floyd			36.5	1.36		
Franklin	35.0	1.00	53.8	1.31	31.5	1.16
Fulton	27.5	1.00	50.8	1.29	57.8	1.16
Gallatin	27.0	1.00	47.0	1.29	30.0	1.16
Garrard	27.5	1.00	54.2	1.34	35.0	1.16
Grant			43.8	1.30		K
Graves	27.0	1.00	41.8	1.29	38.8	1.16
Grayson	29.2	1.00	39.2	1.30	31.0	1.16

KENTUCKY—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Green	30.0	$1.00	46.8	$1.33	33.2	$1.16
Greenup	29.2	1.00	42.8	1.32	24.8	1.16
Hancock	25.5	1.00	43.5	1.29	66.5	1.16
Hardin	28.2	1.00	49.8	1.30	46.0	1.16
Harlan			34.8	1.36		
Harrison	27.5	1.00	58.8	1.32		
Hart	32.2	1.00	49.8	1.32	31.8	1.16
Henderson	31.2	1.00	49.2	1.29	42.2	1.16
Henry	36.8	1.00	52.8	1.30	46.2	1.16
Hickman	34.8	1.00	49.8	1.29	50.5	1.16
Hopkins	28.0	1.00	42.0	1.31	36.2	1.16
Jackson			39.8	1.35		
Jefferson	37.0	1.00	52.5	1.29	33.8	1.16
Jessamine	29.0	1.00	51.0	1.34	30.8	1.16
Johnson			42.8	1.35		
Kenton			48.5	1.29		
Knott			31.0	1.36		
Knox			38.8	1.35		
Larue	25.2	1.00	51.2	1.31	41.8	1.16
Laurel	26.8	1.00	41.0	1.35	30.8	1.16
Lawrence			39.0	1.34		
Lee			40.5	1.35		
Leslie			32.3	1.36		
Letcher			33.5	1.36		
Lewis	21.8	1.00	46.5	1.31		
Lincoln	28.5	1.00	52.5	1.34		
Livingston	19.6	1.00	42.0	1.29	39.0	1.16
Logan	35.0	1.00	48.2	1.32	44.8	1.16
Lyon	22.5	1.00	40.5	1.31	51.2	1.16
McCracken	26.5	1.00	40.0	1.29	36.0	1.16
McCreary			36.0	1.34		
McLean	33.5	1.00	45.8	1.30	32.5	1.16
Madison	36.0	1.00	49.8	1.34	44.0	1.16
Magoffin			41.8	1.36		
Marion	29.5	1.00	51.8	1.32	46.0	1.16
Marshall	28.8	1.00	35.0	1.30	33.0	1.16
Martin			31.5	1.35		
Mason	25.8	1.00	64.5	1.31	55.0	1.16
Meade	34.2	1.00	48.0	1.29	41.8	1.16
Menifee			39.5	1.34		
Mercer	33.5	1.00	53.8	1.33	30.8	1.16
Metcalfe	24.5	1.00	40.8	1.33	32.5	1.16
Monroe	36.8	1.00	41.8	1.33	37.2	1.16
Montgomery	28.8	1.00	53.5	1.34	31.8	1.16
Morgan			45.2	1.35		
Muhlenberg	26.5	1.00	37.8	1.31	33.2	1.16
Nelson	29.5	1.00	50.5	1.31	57.5	1.16
Nicholas	24.2	1.00	48.2	1.33		
Ohio	24.8	1.00	39.0	1.30	33.5	1.16
Oldham	31.8	1.00	51.5	1.29	44.0	1.16
Owen	39.2	1.00	48.2	1.30	26.5	1.16
Owsley			43.8	1.35		
Pendleton			48.8	1.30	40.9	1.16
Perry			33.5	1.36		
Pike			36.2	1.36		
Powell			40.8	1.34		
Pulaski	29.8	1.00	42.5	1.34	40.0	1.16
Robertson			48.5	1.32		
Rockcastle	39.5	1.00	45.8	1.34	46.0	1.16
Rowan			40.8	1.34		
Russell	35.8	1.00	41.2	1.34	30.5	1.16
Scott	35.0	1.00	52.8	1.32	50.0	1.16
Shelby	26.7	1.00	54.5	1.30	40.0	1.16
Simpson	40.7	1.00	51.5	1.33	48.2	1.16
Spencer	37.0	1.00	54.0	1.30	44.0	1.16
Taylor	34.0	1.00	51.8	1.32	46.8	1.16
Todd	38.8	1.00	53.2	1.32	47.8	1.16
Trigg	29.2	1.00	45.5	1.32	47.5	1.16
Trimble	36.8	1.00	53.5	1.29	39.9	1.16
Union	27.0	1.00	59.2	1.29	44.2	1.16
Warren	40.0	1.00	45.8	1.32	48.0	1.16
Washington	22.2	1.00	50.2	1.32	45.0	1.16
Wayne	33.0	1.00	44.0	1.34	47.0	1.16
Webster	26.5	1.00	47.2	1.30	32.5	1.16

KENTUCKY—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Whitley			35.0	$1.35		
Wolfe			42.0	1.35		
Woodford	33.5	$1.00	55.0	1.33	32.5	$1.16

LOUISIANA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Acadia			23.0	$1.32	19.0	$1.16
Allen			27.1	1.32	25.3	1.16
Ascension			32.4	1.32	22.0	1.16
Assumption			30.0	1.32		
Avoyelles			32.0	1.32	35.0	1.16
Beauregard			27.6	1.32	20.0	1.16
Bienville			21.8	1.32	20.0	1.16
Bossier	30.0	$0.93	39.8	1.32	39.0	1.16
Caddo	30.0	.93	35.6	1.32	31.8	1.16
Calcasieu			31.2	1.32	24.2	1.16
Caldwell			35.0	1.32	22.0	1.16
Cameron			29.1	1.32		
Catahoula			28.0	1.32	27.8	1.16
Claiborne			20.5	1.32	20.0	1.16
Concordia			38.6	1.32	28.3	1.16
De Soto			29.4	1.32	42.5	1.16
East Baton Rouge			34.8	1.32		
East Carroll			41.7	1.32	34.6	1.16
East Feliciana			25.5	1.32	37.0	1.16
Evangeline			26.0	1.32	22.8	1.16
Franklin			22.4	1.32	23.0	1.16
Grant			32.2	1.32	33.0	1.16
Iberia			30.0	1.32	22.0	1.16
Iberville			35.4	1.32		
Jackson			27.0	1.32	20.0	1.16
Jefferson			30.2	1.32		
Jefferson Davis	30.0	.93	27.3	1.32	19.4	1.16
Lafayette			26.1	1.32		
Lafourche			22.0	1.32		
La Salle			27.0	1.32		
Lincoln			20.0	1.32	20.0	1.16
Livingston			36.8	1.32		
Madison	30.0	.93	43.0	1.32	36.5	1.16
Morehouse	30.0	.93	34.4	1.32	26.0	1.16
Natchitoches			33.8	1.32	39.2	1.16
Orleans			30.0	1.32		
Ouachita	30.0	.93	35.7	1.32	22.6	1.16
Plaquemines			30.0	1.32		
Pointe Coupee			38.0	1.32		
Rapides			37.8	1.32	30.0	1.16
Red River			30.3	1.32	25.0	1.16
Richland			22.5	1.32	27.5	1.16
Sabine			24.6	1.32	28.0	1.16
St. Bernard			30.2	1.32		
St. Charles			27.8	1.32	22.0	1.16
St. Helena			22.6	1.32		
St. James			30.0	1.32	45.0	1.16
St. John the Baptist			30.0	1.32		
St. Landry			28.0	1.32	30.0	1.16
St. Martin			27.0	1.32		
St. Mary			30.0	1.32		
St. Tammany			29.8	1.32	27.0	1.16
Tangipahoa			31.4	1.32	30.0	1.16
Tensas	30.0	.93	39.3	1.32	30.0	1.16
Terrebonne			23.4	1.32		
Union			23.6	1.32	20.0	1.16
Vermilion			28.9	1.32	22.0	1.16
Vernon			28.8	1.32	25.0	1.16
Washington			33.4	1.32		
Webster			19.9	1.32	36.4	1.16
West Baton Rouge			39.3	1.32	30.0	1.16
West Carroll			22.2	1.32	27.0	1.16
West Feliciana			35.2	1.32	37.0	1.16
Winn			24.7	1.32		

MAINE

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Androscoggin			56.0	$1.41		
Aroostook	37.7	$1.06	54.0	1.41		
Cumberland	31.5	1.06	53.5	1.41		
Franklin			61.0	1.41		
Hancock	33.0	1.06	59.5	1.41		
Kennebec	36.0	1.06	55.0	1.41	50.0	$1.19
Knox			60.5	1.41		
Lincoln			54.0	1.41		
Oxford			62.0	1.41		
Penobscot	30.0	1.06	56.0	1.41		
Piscataquis			60.0	1.41		
Sagadahoc	33.8	1.06	58.0	1.41		
Somerset	35.8	1.06	56.0	1.41		
Waldo	37.0	1.06	61.0	1.41	50.0	1.19
Washington			54.0	1.41		
York			54.0	1.41	43.0	1.19

MARYLAND

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Allegany	36.6	$1.06	42.4	$1.39		
Anne Arundel	32.5	1.06	53.7	1.39		
Baltimore	41.0	1.06	64.2	1.39	47.0	$1.19
Calvert	32.9	1.06	45.0	1.39	38.0	1.19
Caroline	40.0	1.06	54.4	1.39	43.0	1.19
Carroll	39.8	1.06	61.8	1.39	47.0	1.19
Cecil	43.2	1.06	62.8	1.39	47.0	1.19
Charles	30.0	1.06	47.9	1.39		
Dorchester	42.3	1.06	56.6	1.39	46.5	1.19
Frederick	39.2	1.06	60.8	1.39	47.0	1.19
Garrett	38.4	1.06	52.8	1.39	42.0	1.19
Harford	44.2	1.06	68.8	1.39	47.0	1.19
Howard	44.5	1.06	65.3	1.39	47.0	1.19
Kent	40.3	1.06	65.0	1.39	52.5	1.19
Montgomery	39.6	1.06	57.5	1.39	47.0	1.19
Prince Georges	30.0	1.06	45.9	1.39	38.0	1.19
Queen Annes	39.9	1.06	60.0	1.39	47.5	1.19
St. Marys	33.0	1.06	47.0	1.39	38.0	1.19
Somerset	36.4	1.06	53.6	1.39	41.0	1.19
Talbot	39.8	1.06	58.0	1.39	46.5	1.19
Washington	37.8	1.06	57.7	1.39	47.0	1.19
Wicomico	34.0	1.06	50.0	1.39		
Worchester	32.1	1.06	53.8	1.39	41.0	1.19

MASSACHUSETTS

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Barnstable			44.5	$1.41		
Berkshire	34.0	$1.06	68.0	1.41	53.2	$1.19
Bristol			56.5	1.41	44.2	1.19
Dukes			40.5	1.41		
Essex			51.0	1.41	39.9	1.19
Franklin	34.0	1.06	69.0	1.41		
Hampden			68.0	1.41		
Hampshire	34.0	1.06	64.0	1.41	50.1	1.19
Middlesex			59.0	1.41		
Norfolk			45.5	1.41		
Plymouth			50.5	1.41		
Worchester			53.0	1.41	41.5	1.19

MICHIGAN

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Alcona	26.7	$0.86	28.8	$1.29		
Alger	35.0	.90	27.0	1.29		
Allegan	35.4	.97	53.2	1.27	34.0	$1.08
Alpena	28.8	.85	41.1	1.29		
Antrim	28.7	.87	39.6	1.29		
Arenac	45.0	.91	41.2	1.29		
Baraga	31.6	.92	27.0	1.29		

MICHIGAN—Continued

County	Barley		Corn		Grain sorghum	
	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate
Barry	35.5	$0.97	48.7	$1.27		
Bay	37.5	.94	60.4	1.29		
Benzie			37.8	1.29		
Berrien	41.7	1.00	60.3	1.26		
Branch	26.7	.98	58.2	1.27	37.7	$1.08
Calhoun	34.1	1.00	58.2	1.27	38.3	1.08
Cass	34.5	1.00	55.0	1.26	33.0	1.08
Charlevoix	27.7	.86	34.3	1.29		
Cheboygan	27.6	.85	28.6	1.29		
Chippewa	22.7	.87	27.0	1.29		
Clare	30.5	.95	48.9	1.29		
Clinton	37.2	.96	59.0	1.28	39.1	1.08
Crawford	24.4	.87	27.0	1.29		
Delta	35.7	.92	41.1	1.29		
Dickinson	33.4	.93	40.0	1.29		
Eaton	40.9	.97	59.2	1.28	38.9	1.08
Emmet	33.4	.85	31.4	1.29		
Genesee	33.2	.96	48.6	1.28	32.1	1.08
Gladwin	31.5	.93	44.2	1.29		
Gogebic	34.2	.94	27.0	1.29		
Grand Traverse	26.8	.90	42.0	1.29		
Gratiot	36.5	.96	65.4	1.28		
Hillsdale	34.0	.97	55.2	1.27		
Houghton	29.2	.88	27.0	1.29		
Huron	40.0	.92	56.6	1.29		
Ingham	41.1	.97	63.8	1.28		
Ionia	39.4	.96	51.8	1.28	34.2	1.08
Iosco	29.4	.87	39.2	1.29		
Iron	28.2	.91	27.0	1.29		
Isabella	37.3	.94	53.7	1.28		
Jackson	36.2	.98	54.6	1.28		
Kalamazoo	39.7	.99	51.1	1.27		
Kalkaska	22.5	.87	34.0	1.29		
Kent	33.5	.96	48.4	1.28	31.8	1.08
Keweenaw	22.0	.88	27.0	1.29		
Lake	20.0	.92	32.4	1.29		
Lapeer	38.6	.96	50.4	1.28		
Leelanau	29.7	.87	36.5	1.29		
Lenawee	37.0	.97	69.1	1.28	44.4	1.08
Livingston	36.8	.97	49.2	1.28		
Luce	20.1	.87	27.0	1.29		
Mackinac	21.9	.87	36.7	1.29		
Macomb	37.0	.97	45.9	1.28		
Manistee	35.2	.92	39.8	1.29		
Marquette	36.4	.90	27.0	1.29		
Mason	25.4	.91	51.8	1.29		
Mecosta	29.4	.92	50.6	1.28		
Menominee	37.8	.94	42.2	1.29	28.5	1.08
Midland	37.9	.95	51.9	1.28		
Missaukee	20.5	.91	40.0	1.29		
Monroe	32.8	.97	67.6	1.28	43.5	1.08
Montcalm	42.4	.94	57.5	1.28	38.5	1.08
Montmorency	20.5	.85	28.2	1.29		
Muskegon	23.8	.94	48.3	1.29		
Newaygo	27.8	.94	48.8	1.29		
Oakland	35.0	.96	49.4	1.28		
Oceana	21.8	.92	44.5	1.29		
Ogemaw	30.3	.93	44.0	1.29	28.0	1.08
Ontonagon	22.2	.90	27.0	1.29		
Osceola	21.0	.92	45.3	1.29		
Oscoda	24.0	.93	44.2	1.29		
Otsego	23.3	.86	28.9	1.29		
Ottawa	31.5	.97	48.4	1.29	31.5	1.08
Presque Isle	33.8	.85	30.8	1.29		
Roscommon	25.0	.87	27.0	1.29		
Saginaw	36.0	.97	56.8	1.28		
St. Clair	37.3	.97	43.8	1.28		
St. Joseph	29.9	.99	56.2	1.26	34.2	1.08
Sanilac	32.8	.94	47.6	1.28		
Schoolcraft	21.0	.87	27.0	1.29		
Shiawassee	33.8	.96	62.2	1.28		
Tuscola	46.0	.94	61.0	1.28	40.7	1.08
Van Buren	39.8	.98	44.6	1.26		

MICHIGAN—Continued

County	Barley		Corn		Grain sorghum	
	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate
Washtenaw	34.0	$0.97	54.6	$1.28	34.1	$1.08
Wayne	24.7	.97	60.2	1.28		
Wexford	24.3	.92	38.6	1.29		

MINNESOTA

County	Barley		Corn		Grain sorghum	
	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate	1959-60 adjusted average yield	Rate
Aitkin	31.5	$0.99	43.0	$1.17		
Anoka	27.5	.99	48.0	1.19		
Becker	32.5	.94	39.0	1.15		
Beltrami	30.5	.94	40.0	1.15		
Benton	31.5	.99	46.0	1.18		
Big Stone	31.0	.95	42.0	1.14	30.5	$1.05
Blue Earth	34.5	.98	62.0	1.17	51.0	1.05
Brown	34.1	.98	62.0	1.17	52.0	1.05
Carlton	33.5	1.00	36.5	1.17		
Carver	45.5	.99	67.0	1.19	54.0	1.05
Cass	28.6	.97	34.0	1.16	25.0	1.05
Chippewa	34.5	.96	50.0	1.15		
Chisago	32.0	.99	53.0	1.18	43.5	1.05
Clay	32.5	.94	41.0	1.14		
Clearwater	31.5	.94	41.0	1.15		
Cottonwood	34.0	.96	53.2	1.16	43.0	1.05
Crow Wing	28.0	.97	35.0	1.16	27.0	1.05
Dakota	36.5	.99	61.0	1.18	50.0	1.05
Dodge	37.9	.98	62.0	1.17		
Douglas	34.5	.97	45.5	1.16		
East Otter Tail	33.0	.96	39.0	1.15		
East Polk	32.0	.92	41.0	1.14		
Faribault	44.0	.96	64.0	1.15	53.0	1.05
Fillmore	36.4	.95	63.5	1.17	55.0	1.05
Freeborn	42.3	.98	64.0	1.17	52.0	1.05
Goodhue	36.5	.99	68.0	1.18		
Grant	35.0	.95	42.0	1.15		
Hennepin	39.0	.99	59.0	1.19	48.5	1.05
Houston	38.0	.95	71.0	1.18		
Hubbard	32.0	.95	36.0	1.15		
Isanti	31.0	.99	47.0	1.18		
Itasca	31.0	.98	37.0	1.17		
Jackson	33.5	.95	56.2	1.15	45.5	1.05
Kanabec	29.0	.98	45.0	1.18		
Kandiyohi	36.5	.99	52.8	1.17	44.0	1.05
Kittson	29.5	.90	30.0	1.14		
Koochiching	32.0	.91	30.0	1.17		
Lac qui Parle	33.0	.95	48.0	1.14	37.0	1.05
Lake of the Woods	29.5	.92	30.0	1.15		
Le Sueur	40.5	.99	64.0	1.18	52.0	1.05
Lincoln	34.0	.95	47.0	1.14	34.9	1.05
Lyon	36.5	.96	53.0	1.15	40.0	1.05
McLeod	39.5	.99	66.0	1.18	54.0	1.05
Mahnomen	34.0	.93	41.0	1.14		
Marshall	30.0	.91	37.0	1.14		
Martin	34.9	.96	61.0	1.15	51.0	1.05
Meeker	38.0	.99	57.0	1.18	47.0	1.05
Mille Lacs	30.0	.99	47.0	1.18		
Morrison	28.5	.97	40.2	1.16	32.0	1.05
Mower	38.0	.97	60.8	1.17	49.0	1.05
Murray	34.5	.95	51.2	1.15	41.5	1.05
Nicollet	36.5	.99	64.0	1.18	54.0	1.05
Nobles	36.3	.94	52.8	1.15	43.5	1.05
Norman	32.5	.93	40.0	1.14		
North St. Louis	31.0	.98	34.0	1.17		
Olmsted	34.2	.98	63.0	1.17		
Pennington	30.0	.92	38.5	1.14		
Pine	31.0	.99	42.0	1.17	33.0	1.05
Pipestone	34.5	.94	45.0	1.15	39.0	1.05
Pope	35.0	.97	43.0	1.16	34.0	1.05
Ramsey	30.0	.99	53.0	1.19		
Red Lake	29.8	.93	40.0	1.14		
Redwood	36.9	.97	57.0	1.16	45.0	1.05
Renville	38.0	.98	57.0	1.17	49.0	1.05
Rice	36.0	.99	63.0	1.18		

MINNESOTA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Rock	32.8	$0.94	49.0	$1.15	39.0	$1.05
Roseau	27.3	.91	30.0	1.14		
Scott	35.0	.99	63.0	1.18	52.0	1.05
Sherburne	27.5	.99	44.8	1.18	33.3	1.05
Sibley	36.0	.99	64.0	1.18		
South St. Louis	31.0	.98	34.0	1.17		
Stearns	33.5	.99	45.0	1.18	36.0	1.05
Steele	37.7	.98	63.0	1.17		
Stevens	33.2	.96	45.0	1.15	34.0	1.05
Swift	35.0	.97	45.4	1.16	36.5	1.05
Todd	31.0	.97	40.2	1.16	32.0	1.05
Traverse	34.5	.94	39.4	1.15	34.5	1.05
Wabasha	35.0	.99	68.5	1.18	55.0	1.05
Wadena	32.5	.97	35.0	1.16		
Waseca	36.5	.98	65.0	1.17	53.0	1.05
Washington	36.5	.99	58.0	1.19		
Watonwan	32.5	.97	59.5	1.16	44.0	1.05
West Ottertail	33.0	.96	39.0	1.15		
West Polk	32.5	.92	41.0	1.14		
Wilkin	31.5	.94	37.2	1.15		
Winona	34.5	.98	66.5	1.18		
Wright	40.0	.99	58.2	1.18	49.0	1.05
Yellow Medicine	33.1	.96	53.0	1.15	42.4	1.05

MISSISSIPPI

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adams	30.0	$1.02	25.6	$1.33	22.0	$1.16
Alcorn			29.5	1.33	23.0	1.16
Amite			27.4	1.33		
Attala			26.8	1.33	26.1	1.16
Benton			29.4	1.33	21.5	1.16
Bolivar	36.2	1.02	32.8	1.33	36.5	1.16
Calhoun			23.8	1.33	25.5	1.16
Carroll	26.0	1.02	27.2	1.33	31.5	1.16
Chickasaw	34.7	1.02	23.6	1.33	28.0	1.16
Choctaw			26.2	1.33	28.0	1.16
Claiborne			40.0	1.33	35.5	1.16
Clarke			27.0	1.33	23.0	1.16
Clay	33.5	1.02	22.9	1.33	37.0	1.16
Coahoma	31.5	1.02	40.0	1.33	28.6	1.16
Copiah			35.1	1.33	31.0	1.16
Covington			29.2	1.33	27.5	1.16
De Soto			31.4	1.33	29.5	1.16
Forrest			32.8	1.33	27.5	1.16
Franklin			29.2	1.33		
George			26.6	1.33	26.5	1.16
Greene			25.0	1.33	21.5	1.16
Grenada			25.6	1.33	24.0	1.16
Hancock			33.7	1.33		
Harrison			32.0	1.33		
Hinds	21.0	1.02	31.0	1.33	31.5	1.16
Holmes	30.6	1.02	29.6	1.33	34.0	1.16
Humphreys			32.8	1.33	40.0	1.16
Issaquena			51.8	1.33	35.5	1.16
Jatwamba			26.8	1.33	25.0	1.16
Jackson			28.0	1.33	25.0	1.16
Iasper			28.0	1.33	33.0	1.16
Jefferson			34.0	1.33	26.0	1.16
Jefferson Davis			29.6	1.33		
Jones			31.8	1.33	25.0	1.16
Kemper			20.6	1.33	19.2	1.16
Lafayette			27.2	1.33	24.5	1.16
Lamar			29.4	1.33	26.0	1.16
Lauderdale			27.6	1.33	21.2	1.16
Lawrence			27.8	1.33		
Leake			23.6	1.33	26.0	1.16
Lee	30.0	1.02	27.2	1.33	22.5	1.16
Leflore	26.7	1.02	31.6	1.33	38.0	1.16
Lincoln			32.2	1.33	20.0	1.16
Lowndes	34.8	1.02	20.3	1.33	26.0	1.16
Madison	28.7	1.02	24.0	1.33	37.0	1.16
Marion			28.6	1.33	35.0	1.16

MISSISSIPPI—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Marshall	27.1	$1.02	29.7	$1.33	28.5	$1.16
Monroe	34.1	1.02	23.2	1.33	31.0	1.16
Montgomery			25.6	1.33	38.0	1.16
Neshoba			25.4	1.33	30.0	1.16
Newton			27.0	1.33	25.0	1.16
Noxubee	34.7	1.02	20.9	1.33	28.0	1.16
Oktibbeha	30.0	1.02	22.2	1.33	34.0	1.16
Panola			33.6	1.33	36.5	1.16
Pearl River			31.7	1.33	32.5	1.16
Perry			31.0	1.33	25.0	1.16
Pike			28.8	1.33	25.0	1.16
Pontotoc	30.0	1.02	30.2	1.33	21.5	1.16
Prentiss			29.8	1.33	31.0	1.16
Quitman	31.3	1.02	34.7	1.33	42.5	1.16
Rankin			26.8	1.33	26.0	1.16
Scott			24.6	1.33	26.0	1.16
Sharkey	33.0	1.02	51.2	1.33	30.1	1.16
Simpson			27.6	1.33	26.0	1.16
Smith			29.4	1.33	26.0	1.16
Stone			27.6	1.33	27.0	1.16
Sunflower	30.8	1.02	31.0	1.33	42.5	1.16
Tallahatchie	32.1	1.02	33.7	1.33	42.5	1.16
Tate	26.0	1.02	35.7	1.33	39.5	1.16
Tippah			29.4	1.33	32.5	1.16
Tishomingo			25.5	1.33	25.0	1.16
Tunica	32.0	1.02	33.8	1.33	28.0	1.16
Union			27.5	1.33	25.0	1.16
Walthall			31.3	1.33	33.0	1.16
Warren			43.0	1.33	27.0	1.16
Washington	29.8	1.02	42.2	1.33	34.1	1.16
Wayne			26.4	1.33	30.0	1.16
Webster			28.3	1.33	26.6	1.16
Wilkinson			30.7	1.33		
Winston	25.0	1.02	26.2	1.33	29.5	1.16
Yalobusha			27.0	1.33	22.0	1.16
Yazoo			34.0	1.33	38.5	1.16

MISSOURI

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adair	27.1	$0.98	50.4	$1.25	51.4	$1.13
Andrew	24.4	1.01	61.2	1.24	45.2	1.19
Atchison	28.8	.99	61.8	1.23	58.0	1.16
Audrain	34.6	1.00	54.5	1.27	42.8	1.13
Barry	31.6	.97	45.0	1.29	32.3	1.09
Barton	31.0	.99	43.3	1.29	43.4	1.11
Bates	33.5	1.02	49.6	1.27	47.6	1.14
Benton	32.6	1.00	46.5	1.27	51.0	1.16
Bollinger	29.6	1.03	39.8	1.29	37.2	1.20
Boone	28.8	1.00	54.6	1.27	46.0	1.14
Buchanan	23.6	1.02	56.4	1.26	48.7	1.19
Butler	26.8	1.04	38.8	1.29	29.5	1.23
Caldwell	23.8	1.01	50.3	1.27	41.0	1.19
Callaway	32.2	1.00	50.0	1.27	42.2	1.12
Camden	29.0	.98	38.6	1.29	33.4	1.08
Cape Girardeau	32.6	1.03	54.2	1.29	36.4	1.21
Carroll	25.2	1.01	64.4	1.27	47.2	1.19
Carter	31.3	.95	38.8	1.29	32.0	1.11
Cass	26.4	1.02	52.4	1.27	46.4	1.17
Cedar	28.8	1.00	43.5	1.28	36.3	1.12
Chariton	22.4	1.00	61.3	1.27	44.2	1.18
Christian	32.5	.97	43.3	1.29	35.2	1.11
Clark	31.0	.99	54.6	1.25	44.8	1.12
Clay	25.0	1.02	58.6	1.27	43.8	1.19
Clinton	22.7	1.01	51.2	1.27	47.6	1.19
Cole	29.8	.99	49.9	1.28	42.1	1.12
Cooper	29.8	.99	54.0	1.27	54.6	1.15
Crawford	27.6	1.01	38.6	1.29	30.0	1.11
Dade	33.5	.99	42.1	1.29	39.4	1.10
Dallas	27.1	.97	41.6	1.29	36.4	1.09
Daviess	22.0	1.01	54.2	1.25	42.3	1.18
De Kalb	22.2	1.01	53.4	1.25	41.6	1.19
Dent	25.3	.99	36.7	1.29	30.0	1.09

MISSOURI—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Douglas	28.0	$0.95	40.0	$1.29	31.8	$1.11
Dunklin	25.4	1.05	53.0	1.29	30.6	1.23
Franklin	32.8	1.04	48.2	1.28	37.4	1.13
Gasconade	33.8	1.01	52.2	1.28	43.4	1.11
Gentry	23.2	1.00	51.7	1.24	37.4	1.16
Greene	34.6	.97	46.0	1.29	44.6	1.11
Grundy	25.4	1.00	49.4	1.25	48.4	1.17
Harrison	24.6	.99	53.1	1.24	40.4	1.15
Henry	28.4	1.02	46.6	1.27	40.4	1.14
Hickory	28.0	.99	42.4	1.28	36.2	1.11
Holt	22.8	1.00	58.7	1.24	52.0	1.17
Howard	24.5	.99	56.3	1.27	47.8	1.16
Howell	25.2	.97	42.8	1.29	34.0	1.14
Iron	24.0	1.02	39.8	1.29	32.0	1.19
Jackson	24.3	1.02	58.3	1.27	54.8	1.19
Jasper	33.6	.99	46.0	1.29	41.4	1.10
Jefferson	32.8	1.04	49.4	1.28	39.8	1.18
Johnson	27.6	1.01	54.0	1.27	46.8	1.18
Knox	27.0	.98	58.0	1.25	46.8	1.12
Laclede	27.6	.97	39.8	1.29	34.4	1.08
Lafayette	26.0	1.01	63.2	1.27	54.5	1.19
Lawrence	31.5	.97	46.0	1.29	34.9	1.09
Lewis	30.6	1.00	56.8	1.25	48.7	1.12
Lincoln	30.6	1.04	51.0	1.27	41.4	1.10
Linn	27.0	.99	51.3	1.26	39.6	1.17
Livingston	29.2	1.01	49.8	1.26	42.1	1.18
McDonald	29.5	.97	44.2	1.29	32.8	1.09
Macon	27.4	.98	50.3	1.27	44.0	1.15
Madison	26.8	1.02	40.0	1.29	30.0	1.19
Maries	32.1	1.01	37.2	1.29	32.6	1.11
Marion	32.2	1.00	54.0	1.25	42.0	1.12
Mercer	25.0	.98	50.2	1.23	36.6	1.16
Miller	28.4	.98	45.4	1.29	38.4	1.12
Mississippi	28.6	1.04	68.1	1.29	44.5	1.22
Moniteau	31.4	.98	48.5	1.28	50.6	1.14
Monroe	27.2	1.00	54.5	1.27	43.0	1.14
Montgomery	33.5	1.02	54.8	1.27	43.8	1.11
Morgan	30.8	.98	44.8	1.28	42.3	1.15
New Madrid	31.1	1.05	60.2	1.29	35.3	1.23
Newton	33.6	.97	42.6	1.29	31.4	1.09
Nodaway	23.7	.99	53.0	1.23	50.0	1.17
Oregon	34.0	.99	41.8	1.29	34.2	1.16
Osage	34.6	1.00	49.5	1.28	41.8	1.11
Ozark	30.2	.96	36.8	1.29	39.8	1.13
Pemiscot	32.0	1.05	57.1	1.29	44.8	1.23
Perry	32.0	1.01	53.8	1.29	55.0	1.18
Pettis	34.6	1.00	51.1	1.27	52.6	1.16
Phelps	32.8	1.00	38.5	1.29	33.8	1.10
Pike	31.6	1.01	54.8	1.26	46.0	1.11
Platte	27.4	1.02	55.4	1.27	52.8	1.19
Polk	27.9	.99	43.4	1.29	34.8	1.10
Pulaski	26.0	.98	41.8	1.29	32.0	1.09
Putnam	25.0	.98	46.2	1.24	41.8	1.15
Ralls	30.6	1.00	54.0	1.26	42.8	1.13
Randolph	28.6	1.00	50.3	1.27	46.7	1.16
Ray	25.4	1.02	57.4	1.27	50.1	1.19
Reynolds	31.5	.98	39.4	1.29	32.0	1.09
Ripley	27.6	1.04	37.8	1.29	32.2	1.23
St. Charles	31.2	1.04	55.6	1.27	48.6	1.13
St. Clair	27.6	1.01	44.8	1.28	38.8	1.13
St. Francois	28.1	1.02	45.0	1.29	35.5	1.19
St. Louis	29.8	1.04	52.4	1.28	50.8	1.14
Ste. Genevieve	34.0	1.02	52.0	1.28	55.0	1.18
Saline	26.1	1.01	65.4	1.27	52.2	1.18
Schuyler	27.0	.97	54.8	1.24	46.3	1.13
Scotland	29.0	.99	53.0	1.25	44.6	1.11
Scott	32.6	1.04	59.8	1.29	34.0	1.22
Shannon	29.0	.95	41.2	1.29	32.0	1.11
Shelby	29.2	.99	56.6	1.26	42.3	1.14
Stoddard	33.6	1.04	56.6	1.29	37.8	1.22
Stone	30.0	.97	39.6	1.29	38.4	1.11

MISSOURI—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Sullivan	27.9	$0.98	48.6	$1.25	37.4	$1.16
Taney	23.9	.96	40.6	1.29	38.0	1.11
Texas	27.7	.95	39.3	1.29	32.0	1.11
Vernon	30.6	1.00	46.0	1.28	45.6	1.12
Warren	29.2	1.04	52.0	1.27	36.9	1.13
Washington	30.2	1.02	40.0	1.29	35.5	1.18
Wayne	30.1	1.04	38.8	1.29	37.6	1.22
Webster	29.0	.96	40.8	1.29	40.0	1.10
Worth	23.5	.99	52.6	1.23	40.3	1.16
Wright	26.5	.95	40.4	1.29	31.2	1.11
MONTANA						
Beaverhead	41.9	$0.83				
Big Horn	33.4	.71	61.3	$1.27		
Blaine	22.6	.75	37.6	1.27		
Broadwater	29.9	.83	69.5	1.27		
Carbon	28.2	.76	79.4	1.27		
Carter	18.0	.79	14.9	1.27		
Cascade	31.0	.83	75.0	1.27		
Chouteau	33.7	.80	36.4	1.27		
Custer	19.0	.77	40.8	1.27		
Daniels	23.0	.75	16.0	1.27		
Dawson	18.7	.78	26.4	1.27		
Deer Lodge	29.0	.85				
Fallon	18.0	.79	15.2	1.27		
Fergus	31.6	.78	28.0	1.27		
Flathead	35.7	.89	40.7	1.27		
Gallatin	38.9	.81	67.5	1.27		
Garfield	15.4	.76	15.0	1.27		
Glacier	38.3	.82				
Golden Valley	25.5	.77	22.1	1.27		
Granite	31.4	.89				
Hill	29.7	.78	28.2	1.27		
Jefferson	26.4	.84	50.0	1.27		
Judith Basin	29.6	.79	32.6	1.27		
Lake	29.1	.89	50.0	1.27		
Lewis and Clark	26.6	.83	73.4	1.27		
Liberty	32.0	.79	28.2	1.27		
Lincoln	26.2	.89				
McCone	16.0	.77	14.8	1.27		
Madison	37.9	.82	50.0	1.27		
Meagher	24.4	.81				
Mineral	28.1	.91	50.0	1.27		
Missoula	34.0	.91	50.0	1.27		
Musselshell	26.7	.76	38.4	1.27		
Park	29.5	.81				
Petroleum	22.6	.75	45.0	1.27		
Phillips	19.8	.72	45.7	1.27		
Pondera	38.6	.81	43.2	1.27		
Powder River	21.7	.75	16.8	1.27		
Powell	26.8	.87	50.0	1.27		
Prairie	18.5	.77	29.2	1.27		
Ravalli	37.4	.89	62.3	1.27		
Richland	24.2	.78	36.3	1.27		
Roosevelt	22.5	.78	20.0	1.27		
Rosebud	26.0	.73	46.2	1.27		
Sanders	30.2	.91	50.0	1.27		
Sheridan	27.6	.77	20.2	1.27		
Silver Bow	39.5	.85				
Stillwater	28.6	.77	69.9	1.27		
Sweet Grass	23.4	.79	50.0	1.27		
Teton	36.4	.82	43.2	1.27		
Toole	32.5	.81	34.0	1.27		
Treasure	37.4	.72	63.8	1.27		
Valley	19.8	.74	22.5	1.27		
Wheatland	26.6	.79				
Wibaux	22.6	.79	15.6	1.27		
Yellowstone	33.5	.76	83.0	1.27		

NEBRASKA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adams	28.9	$0.95	64.4	$1.20	53.8	$1.06
Antelope	29.0	.96	41.8	1.18	54.6	1.09
Arthur			23.1	1.23	13.5	1.02
Banner	28.8	.84	31.5	1.25	20.7	1.02
Blaine			36.4	1.20	18.2	1.02
Boone	27.2	.97	47.4	1.19	45.3	1.10
Box Butte	29.2	.87	44.8	1.24	30.2	1.02
Boyd	28.7	.94	32.0	1.18	39.4	1.07
Brown	23.3	.92	28.9	1.19	27.6	1.02
Buffalo	26.0	.95	59.6	1.20	46.8	1.04
Burt	31.1	1.00	55.2	1.20	52.2	1.14
Butler	31.9	1.00	54.8	1.20	65.2	1.13
Cass	29.4	1.01	52.4	1.21	63.3	1.13
Cedar	31.3	.95	45.8	1.18	48.4	1.11
Chase	27.5	.89	26.0	1.24	22.8	1.02
Cherry	22.2	.90	16.5	1.21	14.4	1.02
Cheyenne	28.8	.86	44.2	1.25	24.8	1.02
Clay	30.3	.96	69.4	1.20	55.6	1.09
Colfax	29.4	1.00	50.9	1.20	55.8	1.14
Cuming	32.1	1.00	54.8	1.19	53.8	1.14
Custer	26.4	.93	41.0	1.21	39.0	1.02
Dakota	34.6	.98	50.8	1.18	49.4	1.11
Dawes	26.9	.85	22.8	1.24	20.2	1.02
Dawson	25.2	.94	70.5	1.21	49.3	1.02
Deuel	33.7	.88	60.3	1.25	32.0	1.02
Dixon	29.2	.97	44.5	1.18	44.2	1.11
Dodge	32.2	1.01	55.3	1.20	58.2	1.14
Douglas	34.9	1.02	54.6	1.21	57.0	1.14
Dundy	26.0	.88	23.3	1.24	21.4	1.02
Fillmore	28.4	.97	59.8	1.20	55.2	1.09
Franklin	29.0	.94	55.4	1.20	43.4	1.05
Frontier	25.3	.92	24.6	1.22	24.8	1.02
Furnas	26.4	.93	44.7	1.22	32.9	1.04
Gage	28.9	.99	43.4	1.21	52.4	1.11
Garden	30.3	.88	50.0	1.24	32.7	1.02
Garfield	29.5	.94	46.8	1.20	36.8	1.02
Gosper	24.8	.94	52.8	1.22	36.4	1.04
Greeley	29.9	.96	41.8	1.20	38.4	1.07
Hall	29.0	.96	68.0	1.20	60.8	1.05
Hamilton	31.4	.97	70.6	1.20	66.0	1.08
Harlan	27.2	.94	43.6	1.21	37.4	1.05
Hayes	27.2	.89	21.4	1.24	25.6	1.02
Hitchcock	27.2	.90	39.4	1.24	27.1	1.02
Holt	24.3	.95	35.9	1.18	34.8	1.05
Hooker			17.9	1.21	12.6	1.02
Howard	29.5	.96	43.4	1.20	43.2	1.05
Jefferson	28.1	.98	42.3	1.21	49.6	1.10
Johnson	30.0	.99	42.3	1.22	52.0	1.11
Kearney	27.6	.94	65.9	1.20	52.0	1.05
Keith	28.7	.89	59.1	1.24	35.5	1.02
Keya Paha	31.2	.92	27.3	1.19	24.2	1.02
Kimball	24.9	.86	46.6	1.25	26.4	1.02
Knox	29.2	.95	41.0	1.18	44.8	1.10
Lancaster	27.6	1.01	47.0	1.20	55.1	1.12
Lincoln	26.1	.91	45.7	1.22	32.3	1.02
Logan	23.2	.92	26.9	1.22	31.3	1.02
Loup	25.9	.94	42.7	1.20	35.0	1.02
McPherson			15.7	1.22	13.9	1.02
Madison	28.4	.97	44.5	1.19	49.3	1.11
Merrick	28.5	.97	62.9	1.20	53.3	1.09
Morrill	31.4	.86	59.0	1.25	29.9	1.02
Nance	27.6	.98	46.8	1.20	53.4	1.11
Nemaha	30.6	.99	50.8	1.22	54.8	1.11
Nuckolls	27.0	.96	54.6	1.20	48.4	1.08
Otoe	29.9	1.00	47.2	1.21	53.8	1.11
Pawnee	26.1	.99	42.7	1.22	52.0	1.11
Perkins	28.0	.89	25.8	1.24	23.4	1.02
Phelps	29.9	.94	64.6	1.21	53.0	1.05
Pierce	28.8	.97	44.3	1.18	47.1	1.11
Platte	28.2	.99	51.6	1.20	58.0	1.13
Polk	32.8	.98	66.5	1.20	62.8	1.11
Red Willow	28.2	.92	37.2	1.23	29.8	1.02
Richardson	27.4	.99	49.4	1.22	58.0	1.11
Rock	22.4	.92	28.3	1.19	28.8	1.02

NEBRASKA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Saline	27.2	$0.99	46.3	$1.21	51.1	$1.11
Sarpy	33.7	1.02	54.5	1.21	62.0	1.14
Saunders	30.3	1.01	50.5	1.20	56.0	1.14
Scotts Bluff	32.6	.85	75.6	1.25	45.4	1.02
Seward	31.1	1.00	54.0	1.20	61.4	1.13
Sheridan	26.4	.87	26.0	1.23	22.1	1.02
Sherman	25.0	.95	41.0	1.21	40.2	1.03
Sioux	26.7	.84	61.2	1.25	20.5	1.02
Stanton	29.5	.98	48.6	1.19	46.8	1.12
Thayer	29.8	.97	61.4	1.20	56.8	1.09
Thomas			20.0	1.21	15.5	1.02
Thurston	30.9	.99	49.3	1.18	48.9	1.13
Valley	31.5	.94	47.4	1.20	41.1	1.02
Washington	30.5	1.01	59.6	1.21	59.8	1.14
Wayne	32.0	.96	46.6	1.18	46.6	1.11
Webster	27.9	.95	42.0	1.20	40.0	1.06
Wheeler	23.6	.97	38.8	1.20	30.9	1.10
York	31.0	.98	65.5	1.20	62.9	1.10

NEVADA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Churchill	41.8	$0.97	61.0	$1.40	36.0	$1.08
Clark	50.0	.97	56.0	1.40	60.0	1.08
Douglas	37.8	.97				
Elko	27.8	.97				
Esmeralda	35.0	.97	48.0	1.40	25.0	1.08
Eureka	30.0	.97				
Humboldt	26.2	.97	48.0	1.40	25.0	1.08
Lander	30.0	.97				
Lincoln	50.6	.97	56.0	1.40	60.0	1.08
Lyon	36.0	.97	60.0	1.40	36.0	1.08
Mineral	40.0	.97				
Nye	50.5	.97	64.0	1.40	60.0	1.08
Ormsby	35.0	.97				
Pershing	46.4	.97	46.0	1.40	27.1	1.08
Storey	35.0	.97	68.0	1.40		
Washoe	42.8	.97	68.0	1.40	25.0	1.08
White Pine	35.5	.97	48.0	1.40		

NEW HAMPSHIRE

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Belknap			52.0	$1.41		
Carroll			38.0	1.41		
Cheshire			46.8	1.41		
Coos			52.8	1.41		
Grafton			47.6	1.41		
Hillsboro			46.4	1.41		
Merrimack			50.0	1.41		
Rockingham			46.0	1.41		
Strafford			48.8	1.41		
Sullivan			53.6	1.41		

NEW JERSEY

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Atlantic	44.0	$1.06	63.0	$1.40	44.1	$1.19
Bergen			64.0	1.40	44.8	1.19
Burlington	47.5	1.06	70.0	1.40	46.9	1.19
Camden	39.7	1.06	57.5	1.40	40.2	1.19
Cape May	46.0	1.06	62.0	1.40	43.4	1.19
Cumberland	43.5	1.06	65.5	1.40	45.8	1.19
Essex			68.0	1.40	47.6	1.19
Gloucester	44.0	1.06	61.0	1.40	42.7	1.19
Hudson			73.5	1.40	51.4	1.19
Hunterdon	42.6	1.06	73.5	1.40	51.4	1.19
Mercer	47.0	1.06	76.0	1.40	53.2	1.19
Middlesex	43.0	1.06	68.0	1.40	47.6	1.19
Monmouth	41.6	1.06	72.5	1.40	50.8	1.19
Morris	34.7	1.06	80.0	1.40	56.0	1.19

NEW JERSEY—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Ocean	44.7	$1.06	71.5	$1.40	50.0	$1.19
Passaic			70.5	1.40	49.4	1.19
Salem	46.0	1.06	65.0	1.40	45.5	1.19
Somerset	41.0	1.06	75.0	1.40	52.5	1.19
Sussex	38.5	1.06	79.5	1.40	55.6	1.19
Union	42.0	1.06	70.5	1.40	49.4	1.19
Warren	38.2	1.06	77.0	1.40	53.9	1.19
NEW MEXICO						
Bernalillo	36.5	$0.87	49.3	$1.36	50.0	$1.10
Catron	32.2	.87	28.8	1.36	24.0	1.10
Chaves	49.5	.93	57.4	1.36	53.2	1.10
Colfax	24.6	.87	30.5	1.36	19.3	1.10
Curry	28.3	.96	48.1	1.36	47.2	1.10
De Baca	44.0	.92	50.6	1.36	45.0	1.10
Dona Ana	57.6	.87	52.5	1.36	51.5	1.10
Eddy	50.6	.92	53.5	1.36	52.8	1.10
Grant	36.6	.87	43.3	1.36	63.4	1.10
Guadalupe	25.0	.90	28.0	1.36	18.7	1.10
Harding	18.0	.92	15.0	1.36	23.2	1.10
Hidalgo	43.0	.88	52.5	1.36	47.6	1.11
Lea	32.2	.96	42.5	1.36	37.8	1.10
Lincoln	30.0	.88	35.5	1.36	30.0	1.10
Luna	43.0	.88	56.0	1.36	61.0	1.11
McKinley	22.5	.87	18.4	1.36	18.0	1.10
Mora	28.0	.87	16.8	1.36	27.5	1.10
Otero	30.0	.88	49.0	1.36	45.2	1.10
Quay	21.4	.96	39.2	1.36	30.4	1.10
Rio Arriba	25.3	.87	23.5	1.36	20.0	1.10
Roosevelt	32.5	.95	33.1	1.36	26.2	1.10
Sandoval	36.5	.87	32.7	1.36	30.0	1.10
San Juan	28.5	.87	43.2	1.36	43.0	1.10
San Miguel	26.6	.87	17.5	1.36	20.0	1.10
Santa Fe	32.5	.87	27.2	1.36	25.0	1.10
Sierra	42.0	.87	47.0	1.36	44.5	1.10
Socorro	40.0	.87	44.8	1.36	47.5	1.10
Taos	28.8	.87	23.7	1.36	25.0	1.10
Torrance	29.5	.87	24.2	1.36	30.4	1.10
Union	25.5	.95	21.4	1.36	22.0	1.10
Valencia	36.6	.87	28.4	1.36	38.5	1.10
NEW YORK						
Albany	32.0	$1.06	50.5	$1.39	44.8	$1.19
Allegany	31.0	1.06	51.5	1.39	44.8	1.19
Broome	37.5	1.06	54.0	1.39	44.8	1.19
Cattaraugus	33.0	1.06	59.0	1.39	44.8	1.19
Cayuga	33.6	1.06	56.0	1.39	44.8	1.19
Chautauqua	30.0	1.06	55.0	1.39	44.8	1.19
Chemung	31.0	1.06	63.0	1.39	44.8	1.19
Chenango	37.0	1.06	58.5	1.39	44.8	1.19
Clinton	38.5	1.06	46.0	1.39	44.8	1.19
Columbia	35.5	1.06	51.5	1.39	44.8	1.19
Cortland	42.5	1.06	57.5	1.39	44.8	1.19
Delaware	35.0	1.06	52.0	1.39	44.8	1.19
Dutchess	36.5	1.06	55.5	1.39	44.8	1.19
Erie	31.8	1.06	56.0	1.39	44.8	1.19
Essex	36.5	1.06	47.0	1.39	44.8	1.19
Franklin	36.5	1.06	45.0	1.39	44.8	1.19
Fulton	30.5	1.06	45.5	1.39	44.8	1.19
Genesee	34.9	1.06	54.0	1.39	44.8	1.19
Greene	29.9	1.06	54.0	1.39	44.8	1.19
Hamilton					44.8	1.19
Herkimer	32.0	1.06	54.5	1.39	44.8	1.19
Jefferson	35.0	1.06	49.5	1.39	44.8	1.19
Lewis	35.5	1.06	44.5	1.39	44.8	1.19
Livingston	38.4	1.06	59.0	1.39	44.8	1.19
Madison	38.5	1.06	52.5	1.39	44.8	1.19

NEW YORK—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Monroe	37.8	$1.06	59.0	$1.39	44.8	$1.19
Montgomery	30.5	1.06	54.0	1.39	44.8	1.19
Nassau					44.8	1.19
Niagara	32.6	1.06	51.5	1.39	44.8	1.19
Oneida	38.5	1.06	54.5	1.39	44.8	1.19
Onondaga	36.0	1.06	54.5	1.39	44.8	1.19
Ontario	33.0	1.06	62.5	1.39	44.8	1.19
Orange	35.0	1.06	62.5	1.39	44.8	1.19
Orleans	36.6	1.06	55.0	1.39	44.8	1.19
Oswego	37.0	1.06	49.0	1.39	44.8	1.19
Otsego	40.0	1.06	52.5	1.39	44.8	1.19
Putnam			57.0	1.39	44.8	1.19
Rensselaer	34.0	1.06	50.0	1.39	44.8	1.19
Richmond					44.8	1.19
Rockland	35.0	1.06	57.0	1.39	44.8	1.19
St. Lawrence	31.5	1.06	43.5	1.39	44.8	1.19
Saratoga	34.0	1.06	54.0	1.39	44.8	1.19
Schenectady	32.0	1.06	50.0	1.39	44.8	1.19
Schoharie	32.5	1.06	68.5	1.39	44.8	1.19
Schuyler	27.0	1.06	51.5	1.39	44.8	1.19
Seneca	34.8	1.06	58.0	1.39	44.8	1.19
Steuben	28.8	1.06	59.0	1.39	44.8	1.19
Suffolk			56.5	1.39	44.8	1.19
Sullivan			54.5	1.39	44.8	1.19
Tioga	31.0	1.06	62.0	1.39	44.8	1.19
Tompkins	31.0	1.06	54.5	1.39	44.8	1.19
Ulster	34.0	1.06	54.5	1.39	44.8	1.19
Warren			50.0	1.39	44.8	1.19
Washington	34.0	1.06	54.5	1.39	44.8	1.19
Wayne	35.2	1.06	53.5	1.39	44.8	1.19
Westchester			57.0	1.39	44.8	1.19
Wyoming	34.0	1.06	58.0	1.39	44.8	1.19
Yates	35.6	1.06	53.5	1.39	44.8	1.19
NORTH CAROLINA						
Alamance	40.0	$1.06	41.0	$1.39	33.5	$1.19
Alexander	33.5	1.06	37.9	1.39	25.5	1.19
Alleghany	31.0	1.06	58.3	1.39		
Anson	32.0	1.06	32.2	1.39	38.0	1.19
Ashe			59.0	1.39		
Avery	27.5	1.06	53.6	1.39		
Beaufort	32.5	1.06	54.6	1.39	38.0	1.19
Bertie	31.5	1.06	54.5	1.39	36.8	1.19
Bladen	33.0	1.06	39.8	1.39	31.4	1.19
Brunswick	33.0	1.06	36.0	1.39	25.5	1.19
Buncombe	29.0	1.06	45.0	1.39	31.5	1.19
Burke	41.5	1.06	42.9	1.39	29.5	1.19
Cabarrus	29.0	1.06	31.4	1.39	32.5	1.19
Caldwell	32.0	1.06	44.4	1.39	34.5	1.19
Camden	25.0	1.06	66.5	1.39	31.5	1.19
Carteret	23.0	1.06	46.8	1.38	32.0	1.19
Caswell	30.5	1.06	34.0	1.39	30.5	1.19
Catawba	36.5	1.06	38.5	1.39	33.0	1.19
Chatham	39.0	1.06	38.8	1.39	29.5	1.19
Cherokee			45.2	1.39		
Chowan	27.0	1.06	56.3	1.39	33.0	1.19
Clay			50.2	1.39		
Cleveland	37.5	1.06	33.2	1.39	30.5	1.19
Columbus	33.5	1.06	44.8	1.39	32.5	1.19
Craven	26.0	1.06	42.8	1.39	35.0	1.19
Cumberland	33.0	1.06	34.8	1.39	30.5	1.19
Currituck	38.1	1.06	70.3	1.39	29.0	1.19
Dare			40.8	1.39		
Davidson	39.0	1.06	39.8	1.39	33.0	1.19
Davie	42.5	1.06	39.0	1.39	31.5	1.19
Duplin	32.5	1.06	48.0	1.39	25.0	1.19
Durham	39.0	1.06	39.8	1.39	35.0	1.19
Edgecombe	32.0	1.06	47.0	1.39	35.4	1.19
Forsyth	40.0	1.06	37.6	1.39	31.5	1.19

NORTH CAROLINA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Franklin	35.0	$1.06	36.2	$1.39	30.0	$1.19
Gaston	35.5	1.06	33.6	1.39	32.5	1.19
Gates	32.5	1.06	50.5	1.39	30.0	1.19
Graham			48.6	1.39		
Granville	28.0	1.06	32.0	1.39	29.0	1.19
Greene	29.5	1.06	50.2	1.39	27.0	1.19
Guilford	39.5	1.06	39.2	1.39	30.5	1.19
Halifax	36.0	1.06	45.5	1.39	33.5	1.19
Harnett	34.5	1.06	39.4	1.39	27.0	1.19
Haywood			51.5	1.39		
Henderson	36.5	1.06	53.6	1.39	29.5	1.19
Hertford	29.5	1.06	51.6	1.39	28.0	1.19
Hoke	33.5	1.06	36.6	1.39	25.5	1.19
Hyde	33.5	1.06	60.0	1.39		
Iredell	37.5	1.06	38.1	1.39	31.5	1.19
Jackson			52.4	1.39	25.5	1.19
Johnston	32.0	1.06	43.0	1.39	27.0	1.19
Jones	29.0	1.06	45.5	1.39	25.5	1.19
Lee	33.9	1.06	37.0	1.39	36.0	1.19
Lenoir	35.5	1.06	48.1	1.39	25.0	1.19
Lincoln	36.5	1.06	36.8	1.39	29.0	1.19
McDowell	31.5	1.06	44.2	1.39	31.5	1.19
Macon			53.0	1.39		
Madison	28.0	1.06	51.2	1.39	26.0	1.19
Martin	27.0	1.06	52.8	1.39	22.5	1.19
Mecklenburg	37.5	1.06	32.0	1.39	27.0	1.19
Mitchell			57.4	1.39		
Montgomery	34.5	1.06	36.6	1.39	26.5	1.19
Moore	24.5	1.06	32.6	1.39	29.5	1.19
Nash	32.5	1.06	46.0	1.39	27.0	1.19
New Hanover	27.0	1.06	40.4	1.39	26.5	1.19
Northampton	30.0	1.06	48.6	1.39	28.5	1.19
Onslow			42.2	1.39		
Orange	39.5	1.06	40.8	1.39	28.0	1.19
Pamlico	31.0	1.06	49.0	1.39	32.0	1.19
Pasquotank	31.5	1.06	66.1	1.39	37.5	1.19
Pender	31.5	1.06	42.3	1.39	27.0	1.19
Perquimans	33.0	1.06	66.0	1.39	32.5	1.19
Person	29.0	1.06	32.6	1.39	33.0	1.19
Pitt	34.0	1.06	47.5	1.39	32.0	1.19
Polk	38.0	1.06	34.8	1.39	25.0	1.19
Randolph	37.0	1.06	40.5	1.39	37.5	1.19
Richmond	26.0	1.06	30.1	1.39	33.0	1.19
Robeson	32.0	1.06	33.1	1.39	26.5	1.19
Rockingham	37.5	1.06	34.4	1.39	29.1	1.19
Rowan	37.0	1.06	39.8	1.39	33.0	1.19
Rutherford	29.5	1.06	37.8	1.39	25.0	1.19
Sampson	32.5	1.06	44.6	1.39	25.5	1.19
Scotland	33.5	1.06	34.7	1.39	27.0	1.19
Stanly	37.5	1.06	37.3	1.39	35.5	1.19
Stokes	35.5	1.06	35.6	1.39	31.5	1.19
Surry	36.0	1.06	41.8	1.39	32.5	1.19
Swain			45.5	1.39		
Transylvania			55.1	1.39		
Tyrrell			53.4	1.39	32.5	1.19
Union	37.0	1.06	37.2	1.39	38.5	1.19
Vance	33.0	1.06	33.6	1.39	32.0	1.19
Wake	36.5	1.06	38.1	1.39	35.0	1.19
Warren	33.5	1.06	34.4	1.39	34.0	1.19
Washington	36.0	1.06	58.5	1.39	36.5	1.19
Watauga	27.0	1.06	61.7	1.39		
Wayne	35.0	1.06	47.6	1.39	24.5	1.19
Wilkes	30.0	1.06	42.8	1.39	29.5	1.19
Wilson	35.5	1.06	50.2	1.39	26.0	1.19
Yadkin	37.0	1.06	40.0	1.39	29.0	1.19
Yancey	26.5	1.06	55.8	1.39		

NORTH DAKOTA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adams	22.5	$0.83	16.6	$1.13	15.0	$1.02
Barnes	27.5	.91	27.0	1.13	23.0	1.02
Benson	25.3	.88	26.5	1.13	22.0	1.02

NORTH DAKOTA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Billings	22.5	$0.83	17.0	$1.13		
Bottineau	22.2	.84	23.5	1.13		
Bowman	23.5	.82	17.0	1.13		
Burke	20.5	.83	20.0	1.13		
Burleigh	22.0	.87	19.9	1.13		
Cass	31.5	.92	34.0	1.13	29.0	$1.02
Cavalier	25.0	.88	29.0	1.13		
Dickey	26.0	.91	26.0	1.13	22.0	1.02
Divide	22.0	.82	19.0	1.13		
Dunn	22.0	.83	20.0	1.13		
Eddy	27.0	.89	27.0	1.13		
Emmons	21.8	.86	21.5	1.13	18.0	1.02
Foster	27.0	.90	27.5	1.13	23.0	1.02
Golden Valley	24.0	.80	18.0	1.13	16.0	1.02
Grand Forks	31.5	.91	36.0	1.13	27.0	1.02
Grant	21.8	.84	19.7	1.13	16.0	1.02
Griggs	27.2	.91	26.0	1.13	22.0	1.02
Hettinger	24.5	.84	17.7	1.13	16.0	1.02
Kidder	21.0	.88	20.7	1.13		
La Moure	25.5	.90	25.4	1.13	22.0	1.02
Logan	22.7	.88	22.0	1.13	19.0	1.02
McHenry	21.7	.86	25.5	1.13	20.0	1.02
McIntosh	21.4	.88	22.0	1.13		
McKenzie	21.0	.80	22.5	1.13		
McLean	23.4	.86	23.5	1.13		
Mercer	22.0	.85	22.0	1.13	19.0	1.02
Morton	21.5	.85	19.0	1.13		
Mountrail	20.5	.84	20.2	1.13		
Nelson	26.4	.89	27.8	1.13		
Oliver	22.9	.85	22.0	1.13	19.0	1.02
Pembina	30.0	.89	34.0	1.13		
Pierce	23.0	.87	25.5	1.13		
Ramsey	26.0	.88	26.5	1.13	20.0	1.02
Ransom	26.0	.92	29.0	1.13	24.0	1.02
Renville	22.0	.84	22.3	1.13		
Richland	31.0	.93	35.0	1.13	30.0	1.02
Rolette	20.5	.86	22.5	1.13		
Sargent	27.6	.92	29.0	1.13	25.0	1.02
Sheridan	22.0	.87	24.0	1.13	20.0	1.02
Sioux	19.0	.85	18.3	1.13	15.0	1.02
Slope	24.0	.83	17.0	1.13		
Stark	23.0	.84	19.0	1.13	16.0	1.02
Steele	28.2	.91	27.0	1.13	23.0	1.02
Stutsman	25.5	.90	26.5	1.13		
Towner	23.0	.87	22.5	1.13		
Traill	32.3	.91	33.0	1.13	25.0	1.02
Walsh	29.0	.89	34.0	1.13		
Ward	23.5	.84	23.0	1.13		
Wells	26.9	.88	26.0	1.13	22.0	1.02
Williams	20.7	.82	20.4	1.13		

OHIO

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adams	25.0	$0.96	58.0	$1.30	47.0	$1.10
Allen	35.8	.98	60.0	1.27	49.6	1.10
Ashland	37.5	.99	66.2	1.31		
Ashtabula	33.5	1.01	57.8	1.35	46.2	1.10
Athens	35.0	.98	56.8	1.33		
Auglaize	37.5	.98	64.0	1.27	49.6	1.10
Belmont	39.5	.99	54.2	1.35		
Brown	29.0	.96	52.9	1.30	44.4	1.10
Butler	35.0	.96	60.0	1.27	48.8	1.10
Carroll	40.5	.99	57.8	1.34		
Champaign	43.5	.96	71.5	1.28	62.8	1.10
Clark	39.5	.96	71.0	1.28		
Clermont	27.4	.96	50.6	1.29	43.6	1.10
Clinton	32.0	.96	71.8	1.28	57.8	1.10
Columbiana	39.0	1.00	60.0	1.35		
Coshocton	39.0	.99	69.5	1.32		
Crawford	39.8	.98	64.8	1.29		
Cuyahoga			54.5	1.33		
Darke	38.5	.99	65.2	1.27	52.6	1.10

OHIO—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Defiance	36.4	$0.97	60.5	$1.27	48.4	$1.10
Delaware	37.5	.98	64.8	1.29	51.8	1.10
Erie	46.5	.98	73.8	1.31	58.2	1.10
Fairfield	37.5	.98	67.2	1.30	53.8	1.10
Fayette	35.5	.96	71.5	1.29		
Franklin	40.5	.98	62.2	1.29	50.2	1.10
Fulton	42.0	.97	72.8	1.28		
Gallia	37.5	.96	54.5	1.32	45.4	1.10
Geauga	36.1	1.01	67.5	1.34		
Greene	38.0	.96	72.8	1.28	58.2	1.10
Guernsey	34.0	.99	57.0	1.33	45.6	1.10
Hamilton	30.0	.96	60.2	1.28		
Hancock	42.0	.98	67.5	1.28		
Hardin	34.5	.98	69.0	1.28	54.4	1.10
Harrison	38.6	.99	58.0	1.34		
Henry	41.8	.97	72.8	1.28		
Highland	29.6	.96	65.2	1.29	52.2	1.10
Hocking	31.0	.98	61.5	1.31		
Holmes	42.0	.99	71.0	1.32		
Huron	37.0	.98	64.5	1.31		
Jackson	36.0	.96	56.0	1.31	45.0	1.10
Jefferson	41.5	1.00	59.2	1.35		
Knox	34.0	.98	62.0	1.30	49.6	1.10
Lake	39.5	1.00	60.8	1.34	47.0	1.10
Lawrence			53.2	1.32		
Licking	36.0	.98	63.8	1.30	52.2	1.10
Logan	37.0	.97	64.8	1.28	52.2	1.10
Lorain	33.0	.99	64.8	1.32		
Lucas	43.4	.97	72.0	1.29	56.8	1.10
Madison	39.0	.97	70.2	1.29	56.6	1.10
Mahoning	37.5	1.01	63.5	1.35		
Marion	34.5	.98	64.0	1.29	50.0	1.10
Medina	41.4	.99	65.2	1.32		
Meigs	30.0	.96	52.3	1.33		
Mercer	37.5	.98	61.0	1.27	49.6	1.10
Miami	41.5	.97	65.0	1.27	52.4	1.10
Monroe	37.0	.99	57.0	1.35		
Montgomery	36.5	.96	62.5	1.27		
Morgan	37.0	.99	55.5	1.32	44.4	1.10
Morrow	37.6	.98	58.5	1.30		
Muskingum	38.0	.99	60.8	1.32	48.6	1.10
Noble	35.5	.99	56.5	1.33	45.4	1.10
Ottawa	36.5	.98	65.7	1.30	53.6	1.10
Paulding	34.0	.98	60.5	1.27	48.0	1.10
Perry	40.5	.98	59.0	1.31		
Pickaway	33.5	.97	71.0	1.29		
Pike	28.0	.96	58.8	1.30		
Portage	39.3	.99	63.8	1.34		
Preble	38.5	.96	62.3	1.27		
Putnam	41.0	.98	66.5	1.28	53.6	1.10
Richland	35.5	.99	61.0	1.30		
Ross	34.7	.97	69.8	1.30	55.8	1.10
Sandusky	39.5	.98	72.5	1.30	57.2	1.10
Scioto	37.0	.96	57.2	1.31	46.2	1.10
Seneca	41.4	.98	67.0	1.29	52.8	1.10
Shelby	33.0	.98	60.7	1.27	49.8	1.10
Stark	43.0	.99	63.2	1.33		
Summit	35.0	.99	59.5	1.33		
Trumbull	41.2	1.01	60.5	1.35		
Tuscarawas	42.0	.99	65.2	1.33	53.2	1.10
Union	31.5	.98	63.5	1.28	50.0	1.10
Van Wert	43.2	.98	65.5	1.27	52.4	1.10
Vinton	36.5	.98	55.5	1.32	44.0	1.10
Warren	32.0	.96	62.2	1.28	49.4	1.10
Washington	37.0	.99	58.0	1.34		
Wayne	41.5	.99	75.5	1.32		
Williams	37.1	.98	58.7	1.27	48.4	1.10
Wood	40.0	.98	69.5	1.29	55.6	1.10
Wyandot	35.0	.98	62.8	1.29	49.8	1.10

OKLAHOMA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Adair	24.8	$0.94	34.5	$1.31	23.6	$1.06
Alfalfa	27.3	.94	24.9	1.31	29.8	1.09
Atoka	25.2	.94	26.0	1.31	26.4	1.10
Beaver	17.8	.91	40.0	1.31	24.7	1.09
Beckham	22.1	.94	39.4	1.31	27.3	1.10
Blaine	25.4	.94	24.2	1.31	27.8	1.10
Bryan	20.0	.94	31.5	1.31	24.0	1.11
Caddo	26.2	.94	32.0	1.31	32.2	1.10
Canadian	25.4	.94	42.2	1.31	34.5	1.10
Carter	21.0	.94	34.8	1.31	22.8	1.10
Cherokee	19.2	.95	30.8	1.31	24.8	1.10
Choctaw	21.4	.94	29.1	1.31	25.7	1.10
Cimmarron	16.4	.88	24.8	1.31	25.1	1.09
Cleveland	23.4	.94	40.0	1.31	27.9	1.10
Coal	18.3	.94	34.5	1.31	28.7	1.10
Comanche	24.4	.94	32.8	1.31	25.8	1.10
Cotton	24.9	.94	44.8	1.31	28.2	1.10
Craig	24.0	.98	34.2	1.31	35.4	1.10
Creek	19.2	.94	30.0	1.31	23.4	1.10
Custer	22.3	.94	30.6	1.31	31.0	1.10
Delaware	27.4	.97	36.0	1.31	29.4	1.09
Dewey	19.6	.93	25.3	1.31	22.4	1.09
Ellis	17.6	.92	23.4	1.31	19.4	1.09
Garfield	26.7	.94	25.2	1.31	28.2	1.10
Garvin	23.6	.94	46.0	1.31	36.2	1.10
Grady	27.8	.94	42.5	1.31	36.1	1.10
Grant	26.1	.94	29.0	1.31	30.4	1.06
Greer	22.0	.94	30.0	1.31	26.2	1.10
Harmon	23.0	.94	26.5	1.31	26.5	1.10
Harper	17.5	.92	20.6	1.31	19.0	1.08
Haskell	28.8	.94	29.4	1.31	22.0	1.06
Hughes	16.6	.94	30.0	1.31	28.4	1.10
Jackson	27.2	.94	32.5	1.31	34.2	1.10
Jefferson	25.4	.94	24.2	1.31	24.2	1.10
Johnston	21.2	.94	33.2	1.31	23.2	1.10
Kay	30.9	.94	42.8	1.31	37.3	1.06
Kingfisher	25.4	.94	27.8	1.31	31.0	1.10
Kiowa	26.4	.94	32.4	1.31	31.0	1.10
Latimer	17.5	.94	26.3	1.31	21.8	1.06
Le Flore	26.2	.94	30.0	1.31	25.0	1.06
Lincoln	22.3	.94	30.5	1.31	25.0	1.10
Logan	26.7	.94	30.8	1.31	23.4	1.10
Love	25.9	.94	22.5	1.31	27.0	1.11
McClain	28.2	.94	39.8	1.31	29.5	1.10
McCurtain	32.9	.94	34.0	1.31	25.6	1.06
McIntosh	26.6	.94	32.8	1.31	24.4	1.10
Major	24.8	.93	21.0	1.31	24.1	1.09
Marshall	28.2	.94	30.0	1.31	27.1	1.10
Mayes	28.0	.96	31.0	1.31	30.5	1.10
Murray	25.4	.94	32.0	1.31	27.3	1.10
Muskogee	24.2	.94	25.9	1.31	27.3	1.10
Noble	27.9	.94	37.4	1.31	32.7	1.09
Nowata	24.7	.98	37.8	1.31	27.8	1.10
Okfuskee	21.6	.94	28.0	1.31	30.4	1.10
Oklahoma	24.7	.94	47.2	1.31	34.6	1.10
Okmulgee	18.0	.94	27.7	1.31	25.2	1.10
Osage	24.6	.95	36.0	1.31	26.0	1.06
Ottawa	25.3	.98	33.5	1.31	35.8	1.09
Pawnee	25.3	.94	37.0	1.31	25.8	1.10
Payne	25.0	.94	32.8	1.31	24.0	1.10
Pittsburg	20.0	.94	27.5	1.31	26.4	1.10
Pontotoc	22.4	.94	37.2	1.31	33.0	1.10
Pottawatomie	23.6	.94	43.0	1.31	25.6	1.10
Pushmataha			29.4	1.31	31.2	1.07
Roger Mills	18.5	.93	26.0	1.31	24.1	1.10
Rogers	24.3	.97	31.6	1.31	26.0	1.08
Seminole	24.0	.94	29.8	1.31	24.7	1.10
Sequoyah	30.8	.94	28.8	1.31	21.8	1.06
Stephens	25.9	.94	29.3	1.31	28.6	1.10
Texas	18.0	.89	65.0	1.31	30.4	1.09
Tillman	26.4	.94	26.5	1.31	34.2	1.10

OKLAHOMA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Tulsa	24.5	$0.96	37.2	$1.31	27.6	$1.08
Wagoner	23.8	.96	31.2	1.31	33.0	1.10
Washington	23.0	.98	33.0	1.31	29.1	1.09
Washita	22.3	.94	31.2	1.31	31.0	1.10
Woods	26.1	.93	27.4	1.31	24.8	1.09
Woodward	22.2	.93	22.5	1.31	21.2	1.09
OREGON						
Baker	33.6	$1.00	82.0	$1.36		
Benton	36.1	1.03	62.5	1.36		
Clackamas	33.1	1.05	62.5	1.36	40.0	$1.10
Columbia	34.5	1.04	62.5	1.36		
Crook	38.6	1.05	60.0	1.36		
Deschutes	30.8	1.05	32.0	1.36		
Douglas	32.7	.96	67.5	1.36		
Gilliam	33.0	1.07	60.0	1.36		
Grant	31.7	1.05				
Harney	23.0	.93	60.0	1.36		
Hood River	35.0	1.07	62.0	1.36		
Jackson	41.4	.91	54.9	1.36	50.0	1.10
Jefferson	38.1	1.07	75.0	1.36		
Josephine	24.5	.91	78.0	1.36		
Klamath	45.2	.99				
Lake	23.0	.99				
Lane	35.9	1.00	62.5	1.36		
Linn	30.4	1.03	62.5	1.36		
Malheur	46.2	.96	76.6	1.36	60.0	1.10
Marion	35.8	1.05	62.5	1.36		
Morrow	31.4	1.06	83.2	1.36		
Multnomah	40.2	1.08	62.5	1.36		
Polk	39.0	1.04	62.5	1.36		
Sherman	38.0	1.07	60.0	1.36		
Umatilla	43.8	1.05	86.6	1.36	60.0	1.10
Union	38.6	1.01				
Wallowa	35.2	.98				
Wasco	34.6	1.10	86.0	1.36		
Washington	40.2	1.07	62.5	1.36		
Wheeler	24.4	1.05				
Yamhill	39.2	1.06	62.5	1.36		
PENNSYLVANIA						
Adams	38.0	$1.06	57.5	$1.39	45.7	$1.19
Allegheny	34.4	1.06	55.0	1.39	45.7	1.19
Armstrong	32.1	1.06	60.0	1.39	45.7	1.19
Beaver	41.4	1.06	57.7	1.39	45.7	1.19
Bedford	36.4	1.06	59.4	1.39	45.7	1.19
Berks	40.0	1.06	60.2	1.39	45.7	1.19
Blair	38.8	1.06	64.4	1.39	45.7	1.19
Bradford	37.2	1.06	57.0	1.39	45.7	1.19
Bucks	42.2	1.06	60.6	1.39	45.7	1.19
Butler	39.0	1.06	61.0	1.39	45.7	1.19
Cambria	34.9	1.06	54.6	1.39	45.7	1.19
Cameron	29.0	1.06	54.6	1.39	45.7	1.19
Carbon	35.4	1.06	57.0	1.39	45.7	1.19
Centre	36.4	1.06	64.5	1.39	45.7	1.19
Chester	44.4	1.06	64.8	1.39	45.7	1.19
Clarion	34.6	1.06	57.9	1.39	45.7	1.19
Clearfield	36.2	1.06	52.2	1.39	45.7	1.19
Clinton	35.8	1.06	62.8	1.39	45.7	1.19
Columbia	38.1	1.06	61.2	1.39	45.7	1.19
Crawford	31.3	1.06	63.9	1.39	45.7	1.19
Cumberland	37.6	1.06	61.6	1.39	45.7	1.19
Dauphin	36.4	1.06	60.6	1.39	45.7	1.19
Delaware	41.5	1.06	62.1	1.39	45.7	1.19
Elk	36.8	1.06	64.2	1.39	45.7	1.19
Erie	35.7	1.06	62.8	1.39	45.7	1.19
Fayette	37.4	1.06	60.0	1.39	45.7	1.19

PENNSYLVANIA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Forest	32.0	$1.06	57.5	$1.39	45.7	$1.19
Franklin	37.4	1.06	59.6	1.39	45.7	1.19
Fulton	34.5	1.06	62.0	1.39	45.7	1.19
Greene	36.2	1.06	60.3	1.39	45.7	1.19
Huntingdon	39.2	1.06	59.8	1.39	45.7	1.19
Indiana	40.6	1.06	56.6	1.39	45.7	1.19
Jefferson	33.6	1.06	58.8	1.39	45.7	1.19
Juniata	38.8	1.06	62.2	1.39	45.7	1.19
Lackawanna	40.0	1.06	63.4	1.39	45.7	1.19
Lancaster	44.4	1.06	72.0	1.39	45.7	1.19
Lawrence	36.8	1.06	60.6	1.39	45.7	1.19
Lebanon	41.8	1.06	61.6	1.39	45.7	1.19
Lehigh	39.1	1.06	65.6	1.39	45.7	1.19
Luzerne	32.0	1.06	58.0	1.39	45.7	1.19
Lycoming	34.2	1.06	65.2	1.39	45.7	1.19
McKean	31.8	1.06	60.3	1.39	45.7	1.19
Mercer	37.4	1.06	63.2	1.39	45.7	1.19
Mifflin	42.0	1.06	65.6	1.39	45.7	1.19
Monroe	29.1	1.06	62.7	1.39	45.7	1.19
Montgomery	40.0	1.06	58.6	1.39	45.7	1.19
Montour	31.5	1.06	56.0	1.39	45.7	1.19
Northampton	39.6	1.06	62.6	1.39	45.7	1.19
Northumberland	37.1	1.06	61.9	1.39	45.7	1.19
Perry	40.4	1.06	63.2	1.39	45.7	1.19
Philadelphia	45.0	1.06	60.6	1.39	45.7	1.19
Pike	30.0	1.06	64.0	1.39	45.7	1.19
Potter	32.9	1.06	59.0	1.39	45.7	1.19
Schuylkill	36.3	1.06	58.8	1.39	45.7	1.19
Snyder	37.5	1.06	58.9	1.39	45.7	1.19
Somerset	33.2	1.06	60.6	1.39	45.7	1.19
Sullivan	33.1	1.06	62.8	1.39	45.7	1.19
Susquehanna	39.0	1.06	60.4	1.39	45.7	1.19
Tioga	29.6	1.06	64.8	1.39	45.7	1.19
Union	39.5	1.06	63.1	1.39	45.7	1.19
Venango	37.6	1.06	57.2	1.39	45.7	1.19
Warren	36.9	1.06	56.4	1.39	45.7	1.19
Washington	35.7	1.06	57.4	1.39	45.7	1.19
Wayne	35.0	1.06	66.1	1.39	45.7	1.19
Westmoreland	38.8	1.06	57.4	1.39	45.7	1.19
Wyoming	43.4	1.06	68.1	1.39	45.7	1.19
York	41.9	1.06	60.8	1.39	45.7	1.19
RHODE ISLAND						
Bristol			45.5	$1.41	44.0	$1.19
Kent			45.5	1.41		
Newport			36.5	1.41		
Providence			51.3	1.41		
Washington			47.4	1.41	46.0	1.19
SOUTH CAROLINA						
Abbeville	30.1	$1.06	22.8	$1.38	23.2	$1.19
Aiken	26.5	1.06	22.5	1.38	23.2	1.19
Allendale	29.7	1.06	34.0	1.38	26.2	1.19
Anderson	30.0	1.06	24.7	1.38	24.8	1.19
Bamberg	24.7	1.06	30.0	1.38	23.6	1.19
Barnwell	26.4	1.06	27.6	1.38	21.8	1.19
Beaufort			36.9	1.38	20.0	1.19
Berkeley	21.8	1.06	33.2	1.38	18.8	1.19
Calhoun	29.2	1.06	31.2	1.38	20.8	1.19
Charleston	30.6	1.06	33.0	1.38	22.6	1.19
Cherokee	31.6	1.06	24.2	1.38	25.0	1.19
Chester	30.2	1.06	22.8	1.38	25.8	1.19
Chesterfield	27.5	1.06	24.3	1.38	24.6	1.19
Clarendon	29.3	1.06	29.8	1.38	20.2	1.19
Colleton	22.9	1.06	31.0	1.38	20.0	1.19
Darlington	32.4	1.06	34.2	1.38	26.8	1.19
Dillon	29.0	1.06	34.6	1.38	25.1	1.19

SOUTH CAROLINA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Dorchester	22.4	$1.06	29.9	$1.38	21.6	$1.19
Edgefield	32.8	1.06	22.3	1.38	20.9	1.19
Fairfield	33.3	1.06	20.9	1.38	22.4	1.19
Florence	32.2	1.06	32.1	1.38	29.6	1.19
Georgetown	32.3	1.06	30.4	1.38	33.0	1.19
Greenville	31.4	1.06	27.5	1.38	24.1	1.19
Greenwood	34.3	1.06	24.2	1.38	20.4	1.19
Hampton	22.4	1.06	37.7	1.38	20.4	1.19
Horry	28.1	1.06	35.4	1.38	23.8	1.19
Jasper	22.4	1.06	35.2	1.38	20.0	1.19
Kershaw	25.6	1.06	25.5	1.38	17.5	1.19
Lancaster	27.8	1.06	23.6	1.38	29.4	1.19
Laurens	30.5	1.06	23.1	1.38	21.4	1.19
Lee	27.8	1.06	33.0	1.38	20.0	1.19
Lexington	26.2	1.06	26.2	1.38	18.0	1.19
McCormick	33.0	1.06	18.9	1.38	20.0	1.19
Marion	28.6	1.06	34.6	1.38	20.0	1.19
Marlboro	32.2	1.06	28.4	1.38	21.1	1.19
Newberry	36.0	1.06	23.1	1.38	19.4	1.19
Oconee	27.5	1.06	29.2	1.38	24.0	1.19
Orangeburg	27.0	1.06	26.6	1.38	27.1	1.19
Pickens	29.0	1.06	26.6	1.38	22.0	1.19
Richland	33.2	1.06	29.4	1.38	26.0	1.19
Saluda	30.1	1.06	26.5	1.38	23.0	1.19
Spartanburg	27.9	1.06	26.2	1.38	22.8	1.19
Sumter	30.8	1.06	29.7	1.38	20.0	1.19
Union	26.9	1.06	19.8	1.38	23.0	1.19
Williamsburg	28.9	1.06	33.2	1.38	23.4	1.19
York	36.2	1.06	23.8	1.38	25.2	1.19

SOUTH DAKOTA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Aurora	27.3	$0.92	27.6	$1.14	29.0	$1.07
Beadle	25.4	.92	23.8	1.14	23.5	1.04
Bennett	23.6	.88	20.0	1.19	18.0	1.02
Bon Homme	26.0	.95	37.8	1.15	40.8	1.10
Brookings	32.3	.94	37.4	1.14	35.2	1.08
Brown	28.9	.92	25.6	1.14	24.7	1.02
Brule	26.3	.91	23.4	1.14	23.2	1.05
Buffalo	26.3	.91	22.3	1.14	18.8	1.05
Butte	23.0	.81	49.0	1.19	39.5	1.02
Campbell	22.2	.87	22.8	1.15	14.2	1.02
Charles Mix	28.7	.93	28.6	1.14	34.3	1.09
Clark	26.7	.93	28.3	1.14	26.0	1.04
Clay	32.5	.97	46.5	1.16	54.2	1.11
Codington	27.8	.94	29.4	1.14	24.9	1.04
Corson	20.7	.85	17.9	1.17	15.5	1.02
Custer	18.4	.83	42.8	1.22	11.5	1.02
Davison	31.3	.93	29.5	1.14	34.8	1.08
Day	28.7	.92	27.0	1.14	26.0	1.02
Deuel	32.0	.94	37.0	1.14	24.2	1.06
Dewey	22.5	.84	15.6	1.17	13.2	1.02
Douglas	28.7	.93	27.9	1.14	33.3	1.09
Edmunds	25.6	.90	21.8	1.14	21.7	1.02
Fall River	27.4	.83	41.7	1.23	15.5	1.02
Faulk	28.8	.90	22.4	1.15	25.0	1.02
Grant	32.0	.94	37.9	1.14	26.0	1.02
Gregory	28.7	.93	28.3	1.14	25.1	1.05
Haakon	25.1	.83	15.6	1.17	14.8	1.02
Hamlin	29.5	.94	33.6	1.14	28.3	1.05
Hand	26.5	.91	22.8	1.14	24.1	1.03
Hanson	31.5	.94	32.2	1.14	37.6	1.08
Harding	21.7	.83	16.2	1.19	16.5	1.02
Hughes	28.5	.88	18.8	1.15	19.2	1.02
Hutchinson	32.6	.94	32.6	1.15	37.3	1.09
Hyde	27.5	.89	21.8	1.15	19.0	1.02
Jackson	22.9	.84	15.7	1.18	23.2	1.02
Jerauld	26.8	.92	24.5	1.14	22.6	1.06
Jones	26.4	.86	16.4	1.17	18.3	1.02
Kingsbury	28.1	.93	33.1	1.14	34.8	1.06
Lake	31.2	.93	39.5	1.14	38.7	1.08

SOUTH DAKOTA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Lawrence	24.3	$0.82	32.0	$1.19	12.0	$1.02
Lincoln	34.8	.95	45.7	1.16	55.5	1.11
Lyman	29.2	.89	23.5	1.15	23.8	1.02
McCook	32.6	.94	36.3	1.15	39.2	1.09
McPherson	24.0	.89	23.0	1.14	16.7	1.02
Marshall	29.7	.92	29.0	1.14	25.8	1.02
Meade	22.0	.81	18.2	1.18	11.4	1.02
Mellette	26.2	.91	16.9	1.17	20.0	1.02
Miner	31.0	.93	29.4	1.14	35.2	1.08
Minnehaha	33.8	.95	45.5	1.15	47.8	1.10
Moody	34.7	.94	41.3	1.14	39.5	1.09
Pennington	20.8	.81	15.6	1.19	12.2	1.02
Perkins	21.5	.83	15.8	1.18	12.2	1.02
Potter	28.4	.88	21.8	1.16	17.0	1.02
Roberts	33.0	.93	36.0	1.14	30.4	1.02
Sanborn	27.8	.92	27.4	1.14	32.0	1.06
Shannon	21.2	.87	22.8	1.21	13.2	1.02
Spink	26.8	.92	25.8	1.14	29.8	1.03
Stanley	24.0	.88	16.6	1.17	18.2	1.02
Sully	27.6	.87	19.0	1.15	19.2	1.02
Todd	22.4	.91	16.5	1.17	20.0	1.02
Tripp	28.8	.92	23.8	1.15	27.0	1.03
Turner	30.0	.95	41.5	1.16	48.8	1.10
Union	33.1	.97	50.6	1.16	58.5	1.11
Walworth	25.6	.88	23.5	1.16	20.2	1.02
Washabaugh	22.4	.84	17.0	1.18	14.3	1.02
Yankton	28.0	.96	39.0	1.16	46.8	1.11
Ziebach	20.7	.83	15.0	1.18	10.2	1.02

TENNESSEE

Anderson	32.1	$1.03	42.4	$1.36	25.0	$1.16
Bedford	21.1	1.03	38.2	1.33	30.1	1.16
Benton	20.0	1.03	30.8	1.32	23.0	1.16
Bledsoe	30.0	1.03	43.2	1.34	41.4	1.16
Blount	36.2	1.03	45.2	1.37	44.6	1.16
Bradley	28.2	1.03	40.5	1.35	38.4	1.16
Campbell	----------	----------	41.0	1.36	----------	----------
Cannon	19.0	1.03	38.2	1.34	37.8	1.16
Carroll	23.2	1.03	36.5	1.31	29.4	1.16
Carter	33.6	1.03	53.0	1.37	----------	----------
Cheatham	34.4	1.03	39.4	1.32	32.9	1.16
Chester	----------	----------	37.0	1.31	31.7	1.16
Claiborne	38.5	1.03	47.8	1.36	25.0	1.16
Clay	25.2	1.03	37.5	1.34	31.8	1.16
Cocke	40.0	1.03	45.8	1.37	45.8	1.16
Coffee	25.0	1.03	42.2	1.33	27.8	1.16
Crockett	23.7	1.03	36.8	1.31	33.6	1.16
Cumberland	30.0	1.03	43.6	1.35	----------	----------
Davidson	23.3	1.03	36.6	1.33	31.3	1.16
Decatur	20.0	1.03	35.8	1.32	22.6	1.16
De Kalb	23.4	1.03	40.8	1.34	40.0	1.16
Dickson	23.8	1.03	38.5	1.32	35.5	1.16
Dyer	26.0	1.03	45.0	1.30	38.0	1.16
Fayette	20.0	1.03	34.2	1.31	23.6	1.16
Fentress	33.8	1.03	42.6	1.35	34.2	1.16
Franklin	28.4	1.03	46.2	1.32	34.8	1.16
Gibson	23.7	1.03	37.0	1.30	33.6	1.16
Giles	21.1	1.03	31.5	1.32	30.1	1.16
Grainger	40.9	1.03	42.2	1.37	29.5	1.16
Greene	32.8	1.03	47.2	1.37	40.0	1.16
Grundy	27.0	1.03	47.7	1.34	43.6	1.16
Hamblen	37.0	1.03	43.4	1.37	25.5	1.16
Hamilton	21.2	1.03	34.8	1.34	37.0	1.16
Hancock	22.5	1.03	50.0	1.37	----------	----------
Hardeman	35.0	1.03	33.8	1.31	38.4	1.16
Hardin	20.0	1.03	29.5	1.32	22.6	1.16
Hawkins	29.0	1.03	47.0	1.37	27.5	1.16
Haywood	28.8	1.03	35.2	1.31	36.0	1.16
Henderson	35.4	1.03	37.2	1.31	42.6	1.16
Henry	21.2	1.03	38.5	1.31	43.8	1.16

TENNESSEE—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Hickman	23.6	$1.03	43.8	$1.32	40.1	$1.16
Houston	32.5	1.03	35.2	1.32	38.0	1.16
Humphreys	23.0	1.03	43.8	1.32	31.6	1.16
Jackson	21.0	1.03	38.0	1.34	32.0	1.16
Jefferson	30.0	1.03	46.1	1.37	27.0	1.16
Johnson	34.2	1.03	66.8	1.37		
Knox	36.6	1.03	41.8	1.36	38.0	1.16
Lake	35.0	1.03	58.8	1.30	58.8	1.16
Lauderdale	26.6	1.03	39.5	1.30	30.2	1.16
Lawrence	22.0	1.03	31.0	1.32	25.5	1.16
Lewis	20.0	1.03	33.7	1.32	26.4	1.16
Lincoln	22.8	1.03	34.8	1.32	31.2	1.16
Loudon	30.0	1.03	43.3	1.36	27.6	1.16
McMinn	35.6	1.03	38.6	1.35	38.3	1.16
McNairy			32.2	1.32	31.2	1.16
Macon	31.4	1.03	35.0	1.33	37.2	1.16
Madison	33.8	1.03	37.2	1.31	29.0	1.16
Marion	28.0	1.03	44.0	1.33	42.6	1.16
Marshall	20.5	1.03	36.5	1.34	34.5	1.16
Maury	21.8	1.03	35.5	1.32	35.5	1.16
Meigs	30.0	1.03	39.4	1.35	34.6	1.16
Monroe	37.8	1.03	39.2	1.36	33.9	1.16
Montgomery	30.0	1.03	43.0	1.32	35.9	1.16
Moore	20.5	1.03	36.8	1.34	30.0	1.16
Morgan	29.0	1.03	41.8	1.35	25.0	1.16
Obion	27.0	1.03	49.0	1.30	46.6	1.16
Overton	32.2	1.03	37.0	1.34	32.7	1.16
Perry	20.0	1.03	35.5	1.32	31.2	1.16
Pickett	29.4	1.03	44.8	1.34	44.2	1.16
Polk	34.4	1.03	38.6	1.35	38.8	1.16
Putnam	27.5	1.03	36.0	1.34	32.4	1.16
Rhea	23.6	1.03	41.0	1.35	28.6	1.16
Roane	25.0	1.03	39.3	1.36	33.2	1.16
Robertson	31.6	1.03	44.2	1.32	40.6	1.16
Rutherford	23.3	1.03	36.2	1.33	32.0	1.16
Scott			46.2	1.35		
Sequatchie	26.4	1.03	48.4	1.34	30.0	1.16
Sevier	33.2	1.03	44.5	1.37	47.5	1.16
Shelby	21.1	1.05	34.0	1.30	34.6	1.16
Smith	22.7	1.03	41.8	1.33	30.9	1.16
Stewart	20.0	1.03	37.4	1.32	40.7	1.16
Sullivan	35.3	1.03	44.4	1.37		
Sumner	27.4	1.03	38.8	1.33	38.2	1.16
Tipton	29.3	1.03	41.5	1.30	35.5	1.16
Trousdale	22.0	1.03	36.4	1.33	40.8	1.16
Unicoi	30.0	1.03	50.4	1.37		
Union			38.6	1.36		
Van Buren	32.0	1.03	41.9	1.34	25.0	1.16
Warren	22.0	1.03	42.0	1.34	29.7	1.16
Washington	37.0	1.03	53.5	1.37	30.0	1.16
Wayne	20.0	1.03	34.5	1.32	36.3	1.16
Weakley	22.9	1.03	37.0	1.30	35.8	1.16
White	22.0	1.03	41.0	1.34	28.8	1.16
Williamson	26.4	1.03	35.8	1.33	30.6	1.16
Wilson	22.2	1.03	38.2	1.33	33.6	1.16

TEXAS

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Anderson	18.0	$1.09	22.4	$1.32	23.6	$1.24
Andrews			14.0	1.32	15.8	1.10
Angelina			25.7	1.32	27.7	1.26
Aransas			26.0	1.32	26.5	1.31
Archer	21.6	.98	27.0	1.32	19.6	1.11
Armstrong	20.8	.98	22.9	1.32	44.6	1.10
Atascosa	15.8	1.05	17.2	1.32	26.0	1.27
Austin	20.6	1.14	25.4	1.32	26.4	1.29
Bailey	30.0	.98	39.1	1.32	36.4	1.10
Bandera	26.4	1.05	19.6	1.32	25.5	1.25
Bastrop	17.5	1.06	20.0	1.32	29.2	1.25
Baylor	24.5	.98	19.8	1.32	27.9	1.10
Bee			20.0	1.32	28.0	1.31

TEXAS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Bell	18.7	$1.08	30.6	$1.32	29.9	$1.23
Bexar	25.6	1.07	26.4	1.32	28.3	1.26
Blanco	22.2	1.08	19.8	1.32	22.4	1.23
Borden	15.8	.98	20.0	1.32	19.2	1.10
Bosque	19.6	1.06	28.4	1.32	29.4	1.20
Bowie	37.4	1.02	39.0	1.32	42.7	1.15
Brazoria			21.0	1.32	23.9	1.29
Brazos	20.0	1.12	23.2	1.32	32.0	1.27
Brewster			30.6	1.32		
Briscoe	22.6	.98	32.5	1.32	49.0	1.1
Brooks			16.2	1.32	20.8	1.27
Brown	19.7	1.03	20.3	1.32	18.7	1.16
Burleson	21.6	1.11	25.0	1.32	26.6	1.27
Burnet	19.4	1.06	24.4	1.32	22.6	1.21
Caldwell	18.8	1.06	28.2	1.32	31.6	1.25
Calhoun			22.7	1.32	28.5	1.28
Callahan	20.0	1.00	14.2	1.32	19.2	1.13
Cameron			33.0	1.32	39.1	1.23
Camp			28.0	1.32	30.0	1.18
Carson	20.0	.98	75.4	1.32	46.1	1.10
Cass	16.0	1.03	28.2	1.32	27.0	1.16
Castro	31.0	.98	74.7	1.32	73.1	1.10
Chambers			25.8	1.32	24.2	1.26
Cherokee			29.0	1.32	23.5	1.23
Childress	22.2	.98	23.0	1.32	21.8	1.10
Clay	22.7	1.00	19.7	1.32	29.0	1.13
Cochran	23.6	.98	23.6	1.32	27.8	1.10
Coke	21.0	.98	19.4	1.32	22.7	1.10
Coleman	20.0	1.01	15.6	1.32	22.0	1.14
Collin	24.4	1.04	33.5	1.32	37.1	1.18
Collingsworth	19.0	.98	32.7	1.32	27.2	1.10
Colorado			30.2	1.32	30.5	1.28
Comal	24.2	1.08	20.2	1.32	23.9	1.25
Comanche	18.2	1.03	22.0	1.32	19.6	1.16
Concho	21.5	1.01	23.0	1.32	31.4	1.14
Cooke	27.4	1.02	32.4	1.32	29.6	1.15
Coryell	18.6	1.07	25.6	1.32	29.8	1.21
Cottle	21.0	.98	22.0	1.32	17.6	1.10
Crockett			40.0	1.32	31.0	1.10
Crosby	24.4	.98	39.6	1.32	33.3	1.10
Culberson	51.3	.85	30.5	1.32	36.8	1.10
Dallam	15.2	.97	32.7	1.32	29.1	1.10
Dallas	23.0	1.05	27.8	1.32	33.0	1.19
Dawson	15.4	.98	19.8	1.32	20.1	1.10
Deaf Smith	34.8	.98	64.5	1.32	70.0	1.10
Delta	15.8	1.02	23.2	1.32	20.	1.15
Denton	22.6	1.03	31.3	1.32	36.2	1.16
De Witt	22.7	1.10	20.4	1.32	26.4	1.27
Dickens	21.6	.98	14.6	1.32	21.1	1.10
Dimmit	25.0	1.01	28.2	1.32	29.0	1.20
Donley	20.8	.98	32.0	1.32	21.0	1.10
Duval			13.0	1.32	22.0	1.28
Eastland	18.9	1.01	18.6	1.32	15.9	1.15
Ector					45.0	1.10
Edwards			17.5	1.32	32.0	1.13
Ellis	20.4	1.05	23.2	1.32	29.0	1.19
El Paso	49.3	.88	30.2	1.32	52.4	1.10
Erath	19.0	1.02	17.8	1.32	21.6	1.16
Falls	18.6	1.09	25.8	1.32	29.6	1.24
Fannin	21.8	1.02	29.0	1.32	27.9	1.15
Fayette	26.2	1.11	25.9	1.32	30.3	1.27
Fisher	21.3	.98	14.2	1.32	35.8	1.10
Floyd	23.6	.98	71.1	1.32	66.2	1.10
Foard	24.4	.98	37.2	1.32	26.8	1.10
Fort Bend			23.2	1.32	24.8	1.29
ranklin			32.3	1.32	23.2	1.18
Freestone	18.4	1.09	18.6	1.32	17.8	1.23
Frio	16.6	1.02	27.8	1.32	32.8	1.23
Gaines	15.9	.98	19.4	1.32	22.8	1.10
Galveston			31.4	1.32	19.6	1.29
Garza	17.4	.98	27.6	1.32	17.8	1.10
Gillespie	26.5	1.04	20.3	1.32	28.4	1.24
Glasscock	41.2	.90	52.2	1.32	18.6	1.10

TEXAS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Goliad	23.9	$1.10	$24.4	$1.32	30.0	$1.28
Gonzales	22.6	1.10	21.6	1.32	29.3	1.25
Gray	19.1	.98	34.6	1.32	28.5	1.10
Grayson	21.2	1.02	33.2	1.32	29.6	1.15
Gregg			24.3	1.32	23.2	1.19
Grimes	27.6	1.12	24.5	1.32	32.2	1.28
Guadalupe	29.4	1.08	23.2	1.32	32.1	1.25
Hale	30.8	.98	73.2	1.32	70.2	1.10
Hall	20.2	.98	18.2	1.32	24.4	1.10
Hamilton	17.7	1.04	21.0	1.32	29.6	1.18
Hansford	16.8	.96	73.3	1.32	70.0	1.10
Hardeman	24.6	.98	20.4	1.32	25.0	1.10
Hardin			25.8	1.32	16.0	1.27
Harris			25.8	1.32	23.8	1.29
Harrison			26.8	1.32	43.0	1.18
Hartley	15.4	.96	59.3	1.32	27.4	1.10
Haskell	22.6	.98	18.6	1.32	26.5	1.10
Hays	22.9	1.09	23.9	1.32	27.8	1.24
Hemphill	16.5	.96	37.2	1.32	23.8	1.10
Henderson	15.0	1.07	26.4	1.32	24.2	1.21
Hidalgo			35.5	1.32	42.5	1.23
Hill	18.8	1.07	26.4	1.32	29.8	1.21
Hockley	25.6	.98	42.6	1.32	28.8	1.10
Hood	29.4	1.03	19.5	1.32	22.6	1.16
Hopkins	16.0	1.02	25.5	1.32	28.4	1.15
Houston			25.5	1.32	20.8	1.26
Howard	20.0	.98	19.6	1.32	17.8	1.10
Hudspeth	49.3	.88	32.5	1.32	51.8	1.10
Hunt	19.7	1.03	22.2	1.32	23.9	1.16
Hutchinson	17.6	.96	85.0	1.32	68.3	1.10
Irion	21.0	.92			23.0	1.10
Jack	19.8	1.01	15.6	1.32	22.3	1.14
Jackson	18.0	1.11	22.4	1.32	23.8	1.27
Jasper			28.0	1.32	18.0	1.26
Jeff Davis	42.0	.88	30.5	1.32	45.0	1.10
Jefferson			21.0	1.32	16.5	1.27
Jim Hogg			18.0	1.32	24.4	1.27
Jim Wells			22.0	1.32	27.9	1.31
Johnson	23.4	1.05	26.6	1.32	29.8	1.19
Jones	21.2	.98	16.2	1.32	33.6	1.11
Karnes	22.6	1.08	18.2	1.32	27.4	1.28
Kaufman	17.9	1.04	22.7	1.32	22.6	1.18
Kendall	24.0	1.04	19.6	1.32	23.6	1.25
Kenedy					31.0	1.29
Kent	20.9	.98	19.5	1.32	17.4	1.10
Kerr	25.8	1.04	23.6	1.32	17.0	1.24
Kimble	25.6	1.02	22.0	1.32	32.7	1.15
King	21.0	.98	15.0	1.32	18.3	1.10
Kinney	25.6	1.01	56.8	1.32	37.4	1.20
Kleberg			17.6	1.32	34.6	1.30
Knox	24.0	.98	27.4	1.32	25.4	1.10
Lamar	19.5	1.01	27.1	1.32	28.7	1.14
Lamb	27.0	.98	62.2	1.32	43.4	1.10
Lampasas	22.1	1.06	22.0	1.32	26.1	1.20
La Salle	13.8	1.02	21.4	1.32	23.3	1.23
Lavaca			23.4	1.32	26.0	1.26
Lee	17.5	1.07	23.6	1.32	29.6	1.26
Leon	18.0	1.10	21.4	1.32	24.4	1.25
Liberty			20.2	1.32	20.2	1.29
Limestone	18.4	1.09	17.4	1.32	20.4	1.24
Lipscomb	19.1	.96	65.9	1.32	28.1	1.10
Live Oak	15.8	1.07	23.1	1.32	29.0	1.29
Llano	22.9	1.06	17.6	1.32	20.6	1.20
Loving	42.0	.90			31.0	1.10
Lubbock	26.0	.98	30.1	1.32	38.5	1.10
Lynn	20.2	.98	30.4	1.32	22.9	1.10
McCulloch	21.1	1.02	19.6	1.32	19.8	1.15
McLennan	19.6	1.08	27.0	1.32	31.6	1.23
McMullen			24.4	1.32	22.7	1.27
Madison			20.4	1.32	32.2	1.27
Marion			18.6	1.32	32.5	1.18
Martin	41.2	.97	13.2	1.32	18.8	1.10

TEXAS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Mason	24.1	$1.03	21.4	$1.32	21.2	$1.16
Matagorda			18.0	1.32	25.9	1.27
Maverick	26.4	1.00	51.8	1.32	46.8	1.19
Medina	28.4	1.05	28.4	1.32	30.7	1.25
Menard	20.4	1.01	17.0	1.32	19.6	1.14
Midland	13.8	.97	40.1	1.32	18.6	1.10
Milam	18.2	1.10	26.3	1.32	33.5	1.25
Mills	19.3	1.05	20.6	1.32	23.0	1.19
Mitchell	21.5	.98	18.0	1.32	26.0	1.10
Montague	23.6	1.01	21.6	1.32	20.4	1.14
Montgomery			21.7	1.32	25.6	1.29
Moore	18.0	.96	94.6	1.32	63.2	1.10
Morris			27.7	1.32	28.2	1.18
Motley	20.2	.98	20.3	1.32	22.0	1.10
Nacogdoches			30.0	1.32	28.8	1.24
Navarro	19.4	1.07	22.1	1.32	24.2	1.22
Newton			23.8	1.32	18.0	1.25
Nolan	21.4	.98	14.0	1.32	33.4	1.10
Nueces			28.4	1.32	37.1	1.32
Ochiltree	19.8	.96	68.3	1.32	57.2	1.10
Oldham	14.6	.97	50.0	1.32	54.4	1.10
Orange			23.7	1.32	16.5	1.27
Palo Pinto	19.6	1.09	15.2	1.32	20.3	1.15
Panola	18.0	1.07	29.6	1.32	31.8	1.21
Parker	20.0	1.04	27.7	1.32	22.4	1.18
Parmer	30.1	.97	72.7	1.32	76.2	1.10
Pecos	47.0	.89	50.2	1.32	43.6	1.10
Polk			25.0	1.32	18.2	1.27
Potter	21.0	.98	55.8	1.32	48.0	1.10
Presidio	42.0	.88	27.9	1.32	28.4	1.10
Rains	13.0	1.05	22.6	1.32	24.0	1.19
Randall	23.2	.98	47.8	1.32	54.3	1.10
Reagon			40.0	1.32	40.4	1.10
Real	25.6	.96	21.2	1.32	23.0	1.23
Red River	22.4	1.00	28.5	1.32	28.3	1.13
Reeves	42.4	.89	29.8	1.32	58.1	1.10
Refugio			25.4	1.32	31.6	1.29
Roberts	18.6	.96			42.4	1.10
Robertson	18.6	1.10	23.9	1.32	28.4	1.24
Rockwall	21.8	1.03	27.8	1.32	29.7	1.16
Runnels	22.4	1.00	20.5	1.32	38.2	1.13
Rusk			26.1	1.32	23.0	1.20
Sabine			27.1	1.32	21.5	1.23
San Augustine	18.0	1.08	23.0	1.32	17.1	1.23
San Jacinto			20.2	1.32	25.3	1.29
San Patricio			23.4	1.32	35.3	1.32
San Saba	21.4	1.03	21.4	1.32	26.5	1.16
Schleicher	21.0	.93	21.2	1.32	25.5	1.10
Scurry	20.9	.98	14.0	1.32	28.7	1.10
Shackelford	17.5	.99	20.0	1.32	23.0	1.12
Shelby			29.6	1.32	26.2	1.23
Sherman	15.8	.96	74.3	1.32	44.9	1.10
Smith			28.6	1.32	25.4	1.21
Somervell	19.8	1.04	19.5	1.32	26.5	1.18
Starr			20.4	1.32	20.7	1.22
Stephens	17.0	1.01	16.4	1.32	16.6	1.14
Sterling	21.0	.94	50.2	1.32	19.6	1.10
Stonewall	20.9	.98	19.2	1.32	20.0	1.10
Sutton			26.2	1.32	25.0	1.10
Swisher	28.4	.98	81.6	1.32	71.4	1.10
Tarrant	19.7	1.05	28.3	1.32	29.5	1.19
Taylor	20.8	.99	18.5	1.32	32.6	1.12
Terrell			29.5	1.32		
Terry	23.5	.98	24.2	1.32	26.5	1.10
Throckmorton	21.2	.99	17.2	1.32	19.5	1.13
Titus			34.2	1.32	28.1	1.18
Tom Green	21.9	.98	30.6	1.32	38.3	1.10
Travis	17.5	1.09	22.7	1.32	29.3	1.24
Trinity			24.6	1.32	19.0	1.27
Tyler			24.2	1.32		
Upshur			29.2	1.32	24.0	1.19
Upton	36.2	.90			53.2	1.10
Uvalde	25.6	1.03	45.2	1.32	28.6	1.23

TEXAS—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Val Verde	21.6	$0.98	30.5	$1.32	45.0	$1.18
Van Zandt	20.4	1.05	26.6	1.32	22.6	1.19
Victoria			23.0	1.32	30.0	1.28
Walker			19.4	1.32	19.7	1.28
Waller			29.4	1.32	26.8	1.29
Ward	42.0	.93	30.0	1.32	31.1	1.16
Washington	20.6	1.12	28.8	1.32	29.8	1.28
Webb			19.7	1.32	25.6	1.24
Wharton			29.8	1.32	28.5	1.28
Wheeler	17.0	.97	21.0	1.32	19.7	1.10
Wichita	24.4	.99	28.4	1.32	27.6	1.11
Wilbarger	24.3	.98	21.2	1.32	29.8	1.10
Willacy			33.7	1.32	39.8	1.23
Williamson	16.1	1.09	26.0	1.32	35.6	1.24
Wilson	22.6	1.07	21.9	1.32	27.8	1.26
Winkler	10.6	.96			18.8	1.10
Wise	23.6	1.03	22.3	1.32	27.4	1.16
Wood			29.8	1.32	30.4	1.19
Yoakum	26.8	.98	35.0	1.32	23.2	1.10
Young	20.6	1.01	14.6	1.32	19.5	1.14
Zapata			15.2	1.32	24.0	1.22
Zavala	25.6	.98	52.2	1.32	38.8	1.20
UTAH						
Beaver	45.0	$0.92	45.3	$1.39		
Box Elder	43.5	.97	50.6	1.39		
Cache	40.8	.97	52.3	1.39		
Carbon	38.8	.92	39.7	1.39	40.0	$1.02
Daggett	28.8	.92	38.7	1.39		
Davis	48.8	.97	60.8	1.39		
Duchesne	35.0	.92	37.7	1.39	40.0	1.02
Emery	41.0	.92	43.2	1.39		
Garfield	47.5	.92	40.0	1.39		
Grand	46.0	.92	39.6	1.39		
Iron	52.0	.92	37.7	1.39		
Juab	39.5	.92	47.4	1.39	40.0	1.02
Kane	29.5	.92	38.7	1.39		
Millard	45.5	.92	48.0	1.39	50.0	1.02
Morgan	57.6	.97	48.4	1.39		
Piute	49.8	.92	40.0	1.39		
Rich	41.1	.97	41.6	1.39		
Salt Lake	41.0	.97	50.1	1.39	60.0	1.02
San Juan	15.0	.92	31.3	1.39		
Sanpete	43.8	.92	43.3	1.39	45.0	1.02
Sevier	59.5	.92	48.1	1.39		
Summit	49.8	.92	38.7	1.39		
Tooele	40.7	.97	45.8	1.39		
Uintah	39.0	.92	42.0	1.39		
Utah	53.2	.92	52.4	1.39	70.0	1.02
Wasatch	63.2	.92	38.7	1.39		
Washington	49.8	.92	38.7	1.39	50.0	1.02
Wayne	48.5	.92	41.1	1.39		
Weber	50.8	.97	50.1	1.39		
VERMONT						
Addison	32.0	$1.06	52.5	$1.41	45.0	$1.19
Bennington	32.0	1.06	70.0	1.41	45.0	1.19
Caledonia	32.0	1.06	56.4	1.41	45.0	1.19
Chittenden	32.0	1.06	69.0	1.41	45.0	1.19
Essex	32.0	1.06	51.5	1.41	45.0	1.19
Franklin	32.0	1.06	53.0	1.41	45.0	1.19
Grand Isle	32.0	1.06	50.5	1.41	45.0	1.19
Lamoille	32.0	1.06	57.0	1.41	45.0	1.19
Orange	32.0	1.06	64.0	1.41	45.0	1.19
Orleans	32.0	1.06	56.4	1.41	45.0	1.19
Rutland	32.0	1.06	53.0	1.41	45.0	1.19
Washington	32.0	1.06	64.5	1.41	45.0	1.19
Windham	32.0	1.06	66.0	1.41	45.0	1.19
Windsor	32.0	1.06	54.0	1.41	45.0	1.19

VIRGINIA

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Accomack	38.0	$1.06	57.6	$1.39	41.0	$1.19
Albermarle	40.0	1.06	45.3	1.39	33.0	1.19
Alleghany	37.2	1.06	58.6	1.39	40.0	1.19
Amelia	44.7	1.06	40.6	1.39	38.0	1.19
Amherst	31.6	1.06	40.5	1.39	35.0	1.19
Appomattox	36.0	1.06	41.0	1.39	34.5	1.19
Augusta	45.6	1.06	63.6	1.39	44.0	1.19
Bath	37.5	1.06	61.6	1.39	40.0	1.19
Bedford	42.6	1.06	42.5	1.39	35.5	1.19
Bland	38.0	1.06	58.2	1.39	36.0	1.19
Botetourt	41.2	1.06	51.5	1.39	33.5	1.19
Brunswick	32.6	1.06	34.0	1.39	30.5	1.19
Buchanan			43.2	1.39	32.5	1.19
Buckingham	37.4	1.06	41.0	1.39	34.5	1.19
Campbell	36.4	1.06	38.0	1.39	38.1	1.19
Caroline	39.2	1.06	46.8	1.39	32.0	1.19
Carroll	35.0	1.06	54.0	1.39	35.0	1.19
Charles City	40.0	1.06	54.6	1.39	33.0	1.19
Charlotte	39.0	1.06	34.6	1.39	36.0	1.19
Chesterfield	33.9	1.06	42.8	1.39	40.0	1.19
Clarke	38.2	1.06	57.2	1.39	40.0	1.19
Craig	48.9	1.06	59.8	1.39	38.0	1.19
Culpeper	41.4	1.06	50.0	1.39	33.0	1.19
Cumberland	39.7	1.06	41.2	1.39	39.1	1.19
Dickenson			46.4	1.39	35.0	1.19
Dinwiddie	35.4	1.06	40.1	1.39	38.0	1.19
Essex	45.6	1.06	51.5	1.39	35.0	1.19
Fairfax	38.7	1.06	55.0	1.39	35.0	1.19
Fauquier	36.5	1.06	52.0	1.38	33.0	1.19
Floyd	41.8	1.06	58.1	1.39	40.0	1.19
Fluvanna	41.0	1.06	46.3	1.39	33.0	1.19
Franklin	37.0	1.06	38.0	1.39	30.5	1.19
Frederick	37.0	1.06	49.0	1.39	40.0	1.19
Giles	39.8	1.06	48.0	1.39	38.0	1.19
Gloucester	42.6	1.06	52.0	1.39	41.0	1.19
Goochland	37.4	1.06	41.2	1.39	32.5	1.19
Grayson	43.1	1.06	63.2	1.39	35.0	1.19
Greene	35.4	1.06	44.9	1.39	33.0	1.19
Greensville	34.9	1.06	41.0	1.39	30.5	1.19
Halifax	33.8	1.06	32.0	1.39	35.5	1.19
Hanover	39.9	1.06	44.2	1.39	34.5	1.19
Henrico	39.7	1.06	46.5	1.39	36.0	1.19
Henry	31.7	1.06	32.1	1.39	30.2	1.19
Highland	34.2	1.06	59.7	1.39	40.0	1.19
Isle of Wight	39.1	1.06	52.0	1.39	41.0	1.19
James City	46.1	1.06	54.0	1.39	37.0	1.19
King and Queen	39.2	1.06	50.5	1.39	33.0	1.19
King George	42.0	1.06	48.8	1.39	35.5	1.19
King William	42.7	1.06	50.5	1.39	34.0	1.19
Lancaster	40.0	1.06	52.0	1.39	41.0	1.19
Lee	36.0	1.06	53.0	1.39	40.0	1.19
Loudoun	41.2	1.06	59.7	1.39	40.0	1.19
Louisa	34.0	1.06	48.2	1.39	35.5	1.19
Lunenburg	36.5	1.06	37.0	1.39	30.5	1.19
Madison	40.4	1.06	48.0	1.39	35.0	1.19
Mathews	38.5	1.06	50.6	1.39	41.0	1.19
Mecklenburg	34.0	1.06	32.3	1.39	30.5	1.19
Middlesex	42.1	1.06	49.0	1.39	32.5	1.19
Montgomery	36.1	1.06	51.0	1.39	36.0	1.19
Nansemond	31.0	1.06	52.0	1.39	33.0	1.19
Nelson	37.0	1.06	50.2	1.39	35.0	1.19
New Kent	39.6	1.06	55.6	1.39	33.0	1.19
Norfolk	31.7	1.06	63.2	1.39	32.5	1.19
Northampton	37.5	1.06	52.0	1.39	34.0	1.19
Northumberland	41.0	1.06	55.9	1.39	41.0	1.19
Nottoway	39.2	1.06	45.6	1.39	30.0	1.19
Orange	42.8	1.06	49.0	1.39	32.0	1.19
Page	40.6	1.06	49.8	1.39	40.0	1.19
Patrick	34.0	1.06	47.5	1.39	33.0	1.19
Pittsylvania	34.0	1.06	32.0	1.39	31.0	1.19
Powhatan	40.0	1.06	41.6	1.39	35.0	1.19
Prince Edward	37.5	1.06	39.0	1.39	32.0	1.19
Prince George	34.9	1.06	48.6	1.39	39.0	1.19
Prince William	38.2	1.06	60.0	1.39	35.0	1.19

VIRGINIA—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Princess Anne	35.8	$1.06	64.6	$1.39	33.8	$1.19
Pulaski	43.0	1.06	53.6	1.39	36 0	1.19
Rappahannock	38.4	1.06	53.0	1.39	35.0	1.19
Richmond	41.4	1.06	53.0	1.39	34.0	1.19
Roanoke	42.4	1.06	50.0	1.39	38.5	1.19
Rockbridge	39.7	1.06	53.4	1.39	39.5	1.19
Rockingham	41.8	1.06	57.0	1.39	45.5	1.19
Russell	44.8	1.06	54.0	1.39	37.0	1.19
Scott	39.0	1.06	48.5	1.39	38.0	1.19
Shenandoah	39.1	1.06	54.5	1.39	45.5	1.19
Smyth	36.0	1.06	60.1	1.39	36.0	1.19
Southampton	31.6	1.06	52.6	1.39	35.5	1.19
Spotsylvania	41.6	1.06	50.8	1.39	33.0	1.19
Stafford	40.4	1.06	47.0	1.39	40.0	1.19
Surry	37.0	1.06	54.0	1.39	33.5	1.19
Sussex	35.6	1.06	48.0	1.39	34.5	1.19
Tazewell	37.5	1.06	57.6	1.39	36.0	1.19
Warren	36.8	1.06	52.0	1.39	40.0	1.19
Washington	39.2	1.06	57.5	1.39	35.0	1.19
Westmoreland	44.5	1.06	52.9	1.39	38.0	1.19
Wise			47.8	1.39	32.5	1.19
Wythe	41.3	1.06	55.0	1.39	35.0	1.19
York	39.6	1.06	52.0	1.39	38.0	1.19
City of Hampton	40.0	1.06	52.0	1.39	38.0	1.19
City of Newport News	40.0	1.06	52.0	1.39	38.0	1.19

WASHINGTON

County	Barley 1959–60 adjusted average yield	Barley Rate	Corn 1959–60 adjusted average yield	Corn Rate	Grain sorghum 1959–60 adjusted average yield	Grain sorghum Rate
Adams	33.6	$1.04	89.0	$1.34	77.0	$1.10
Asotin	32.4	1.01				
Benton	30.5	1.06	77.8	1.34	58.0	1.10
Chelan	19.2	1.04				
Clallam	58.5	.95				
Clark	39.0	1.07	60.0	1.34		
Columbia	47.8	1.04	45.0	1.34		
Cowlitz	35.0	1.06	65.0	1.34		
Douglas	25.5	1.03				
Ferry	23.2	.86				
Franklin	33.8	1.05	88.2	1.34	76.0	1.10
Garfield	46.4	1.02	105.0	1.34		
Grant	31.4	1.04	90.2	1.34	78.0	1.10
Grays Harbor	44.5	1.02				
Island	42.0	1.05				
Jefferson	52.5	.97				
King	37.5	1.07	50.0	1.34		
Kitsap	35.5	1.00	40.0	1.34		
Kittitas	45.4	1.08	71.8	1.34		
Klickitat	31.9	1.07				
Lewis	34.4	1.02	55.0	1.34		
Lincoln	35.4	1.02				
Okanogan	21.2	1.03	55.0	1.34		
Pend Oreille	29.1	.90				
Pierce	31.1	1.07				
San Juan	29.5	1.04				
Skagit	50.4	1.04	65.0	1.34		
Skamania	42.5	1.07	40.0	1.34		
Snohomish	40.0	1.05	70.0	1.34		
Spokane	35.8	1.00	35.0	1.34		
Stevens	31.5	.97	35.0	1.34		
Thurston	38.6	1.03	60.0	1.34		
Wahkiakum			75.0	1.34		
Walla Walla	47.6	1.05	54.0	1.34	47.0	1.10
Whatcom	48.5	1.03	75.0	1.34		
Whitman	43.9	1.01				
Yakima	51.2	1.05	77.5	1.34	56.0	1.10

WEST VIRGINIA

County	Barley 1959–60 adjusted average yield	Barley Rate	Corn 1959–60 adjusted average yield	Corn Rate	Grain sorghum 1959–60 adjusted average yield	Grain sorghum Rate
Barbour	35.0	$1.03	63.9	$1.38		
Berkeley	43.2	1.03	55.6	1.38		

WEST VIRGINIA—Continued

County	Barley 1959–60 adjusted average yield	Barley Rate	Corn 1959–60 adjusted average yield	Corn Rate	Grain sorghum 1959–60 adjusted average yield	Grain sorghum Rate
Boone			43.4	$1.38		
Braxton			53.1	1.38		
Brooke	36.2	$1.03	54.8	1.38		
Cabell	35.0	1.03	43.4	1.38		
Calhoun	31.0	1.03	44.0	1.38		
Clay			42.8	1.38		
Doddridge			55.4	1.38		
Fayette	31.6	1.03	47.2	1.38		
Gilmer			47.7	1.38		
Grant	32.9	1.03	54.4	1.38		
Greenbrier	32.4	1.03	62.0	1.38		
Hampshire	36.4	1.03	53.4	1.38		
Hancock	36.6	1.03	43.3	1.38		
Hardy	35.8	1.03	53.9	1.38	40.0	$1.16
Harrison	35.4	1.03	50.0	1.38		
Jackson			48.8	1.38	40.0	1.16
Jefferson	37.4	1.03	53.4	1.38		
Kanawha			42.8	1.38		
Lewis	37.0	1.03	57.0	1.38		
Lincoln			36.9	1.38		
Logan			33.6	1.38		
McDowell			32.0	1.38		
Marion	32.0	1.03	51.5	1.38		
Marshall	31.4	1.03	54.2	1.38		
Mason	31.6	1.03	52.9	1.38	42.0	1.16
Mercer	34.0	1.03	45.0	1.38		
Mineral	29.6	1.03	50.7	1.38	38.0	1.16
Mingo			32.0	1.38		
Monongalia	34.9	1.03	57.5	1.38	36.0	1.16
Monroe	34.4	1.03	57.1	1.38	38.0	1.16
Morgan	35.2	1.03	48.0	1.38		
Nicholas	32.0	1.03	57.0	1.38		
Ohio	34.8	1.03	58.6	1.38		
Pendleton	37.7	1.03	51.2	1.38	35.0	1.16
Pleasants			46.8	1.38		
Pocahontas	33.8	1.03	58.7	1.38	40.0	1.16
Preston	39.4	1.03	50.5	1.38		
Putnam	32.5	1.03	46.8	1.38		
Raleigh			46.0	1.38		
Randolph	37.2	1.03	56.0	1.38		
Ritchie	35.5	1.03	46.2	1.38		
Roane			48.8	1.38		
Summers	27.8	1.03	42.6	1.38		
Taylor	36.8	1.03	49.7	1.38		
Tucker	38.2	1.03	60.8	1.38		
Tyler	35.0	1.03	52.2	1.38		
Upshur	33.3	1.03	51.0	1.38		
Wayne			39.6	1.38		
Webster			58.6	1.38		
Wetzel			48.5	1.38		
Wirt			53.7	1.38		
Wood	37.4	1.03	57.6	1.38		
Wyoming			32.8	1.38		

WISCONSIN

County	Barley 1959–60 adjusted average yield	Barley Rate	Corn 1959–60 adjusted average yield	Corn Rate	Grain sorghum 1959–60 adjusted average yield	Grain sorghum Rate
Adams	29.0	$0.97	50.2	$1.25	30.0	$1.05
Ashland	31.6	.96	47.2	1.25	30.0	1.05
Barron	34.0	.97	55.5	1.23	30.0	1.05
Bayfield	29.8	.97	44.2	1.24	30.0	1.05
Brown	35.5	.98	64.0	1.27	30.0	1.05
Buffalo	42.0	.97	64.8	1.23	30.0	1.05
Burnett	25.0	.99	45.5	1.23	30.0	1.05
Calumet	39.0	.98	65.0	1.27	30.0	1.05
Chippewa	36.0	.96	56.0	1.24	30.0	1.05
Clark	39.0	.94	56.8	1.25	30.0	1.05
Columbia	40.0	.98	71.2	1.26	30.0	1.05
Crawford	39.0	.96	68.1	1.23	30.0	1.05
Dane	38.5	1.00	75.0	1.26	30.0	1.05
Dodge	37.0	.99	74.5	1.26	30.0	1.05
Door	38.0	.95	55.8	1.28	30.0	1.05

WISCONSIN—Continued

County	Barley		Corn		Grain sorghum	
	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate	1959–60 adjusted average yield	Rate
Douglas	34.0	$1.00	37.2	$1.23	30.0	$1.05
Dunn	37.5	.98	57.0	1.23	30.0	1.05
Eau Claire	39.1	.97	63.0	1.24	30.0	1.05
Florence	29.0	.93	44.3	1.27	30.0	1.05
Fond du Lac	39.0	.99	68.0	1.26	30.0	1.05
Forest	36.0	.94	50.4	1.27	30.0	1.05
Grant	39.0	.97	68.8	1.23	30.0	1.05
Green	40.5	1.00	71.8	1.25	30.0	1.05
Green Lake	40.0	.98	68.8	1.26	30.0	1.05
Iowa	36.0	.97	69.0	1.25	30.0	1.05
Iron	29.8	.94	40.0	1.26	30.0	1.05
Jackson	38.0	.96	59.5	1.24	30.0	1.05
Jefferson	39.0	1.01	73.0	1.26	30.0	1.05
Juneau	39.0	.98	56.0	1.25	30.0	1.05
Kenosha	38.0	1.05	69.0	1.27	30.0	1.05
Kewaunee	41.5	.96	64.7	1.28	30.0	1.05
La Crosse	42.0	.96	69.8	1.23	30.0	1.05
Lafayette	39.4	.98	70.0	1.25	30.0	1.05
Langlade	37.7	.95	57.0	1.27	30.0	1.05
Lincoln	29.8	.94	58.0	1.26	30.0	1.05
Manitowoc	40.5	.98	63.6	1.28	30.0	1.05
Marathon	38.5	.95	60.0	1.26	30.0	1.05
Marinette	33.0	.94	55.0	1.27	30.0	1.05
Marquette	30.0	.97	57.2	1.26	30.0	1.05
Menominee	37.0	.97	57.0	1.27	30.0	1.05
Milwaukee	38.5	1.05	62.2	1.27	30.0	1.05
Monroe	35.0	.97	65.2	1.24	30.0	1.05
Oconto	37.0	.96	58.3	1.27	30.0	1.05
Oneida	29.0	.93	39.5	1.27	30.0	1.05
Outagamie	40.5	.98	69.5	1.26	30.0	1.05
Ozaukee	38.6	1.00	63.8	1.27	30.0	1.05
Pepin	36.0	.98	64.2	1.23	30.0	1.05
Pierce	36.6	.99	62.0	1.23	30.0	1.05
Polk	35.4	.99	54.0	1.23	30.0	1.05
Portage	27.0	.97	57.0	1.26	30.0	1.05
Price	34.0	.94	53.5	1.25	30.9	1.05
Racine	37.5	1.05	71.0	1.27	30.0	1.05
Richland	41.5	.97	64.8	1.24	30.0	1.05
Rock	40.5	1.01	72.8	1.26	30.0	1.05
Rusk	34.0	.96	51.0	1.24	30.0	1.05
St. Croix	38.5	.99	59.0	1.23	30.0	1.05
Sauk	38.4	.98	67.8	1.25	30.0	1.05
Sawyer	34.0	.97	49.2	1.24	30.0	1.05
Shawano	41.3	.97	60.6	1.27	30.0	1.05
Sheboygan	39.0	1.00	65.2	1.27	30.0	1.05
Taylor	36.0	.94	54.8	1.25	30.0	1.05
Trempealeau	40.5	.96	64.2	1.23	30.0	1.05
Vernon	37.5	.96	63.0	1.23	30.0	1.05
Vilas	30.0	.91	45.0	1.27	30.0	1.05
Walworth	38.5	1.01	72.0	1.26	30.0	1.05
Washburn	30.0	.98	45.2	1.23	30.0	1.05
Washington	38.2	1.00	69.0	1.26	30.0	1.05
Waukesha	37.0	1.01	72.8	1.26	30.0	1.05
Waupaca	38.0	.97	63.2	1.27	30.0	1.05
Waushara	34.0	.97	53.8	1.26	30.0	1.05
Winnebago	39.5	.98	65.5	1.27	30.0	1.05
Wood	35.5	.96	54.8	1.25	30.0	1.05

WYOMING

Albany	31.6	$0.92				
Big Horn	46.7	.92	67.4	$1.27	47.2	$1.02
Campbell	21.9	.77	17.0	1.27	11.9	1.02
Carbon	33.3	.92				
Converse	27.8	.78	35.7	1.27	25.0	1.02
Crook	20.2	.79	32.0	1.27	22.4	1.02
Fremont	43.1	.92	63.0	1.27	44.1	1.02
Goshen	32.3	.84	65.3	1.27	19.8	1.02
Hot Springs	43.0	.92	64.0	1.27		
Johnson	29.3	.75	55.0	1.27		
Laramie	26.6	.86	27.4	1.27	19.2	1.02
Lincoln	31.8	.92			31.5	1.02
Natrona	29.5	.92	44.0	1.27	30.8	1.02
Niobrara	26.2	.81	25.7	1.27	18.0	1.02
Park	49.0	.92	66.0	1.27	46.2	1.02
Platte	27.0	.84	56.6	1.27	39.6	1.02
Sheridan	29.4	.75	43.1	1.27	30.2	1.02
Sublette	28.3	.92				
Sweetwater	32.7	.92			35.0	1.02
Teton	36.1	.92				
Uinta	37.9	.92				
Washakie	49.6	.92	66.0	1.27	46.2	1.02
Weston	21.2	.80	22.0	1.27	15.4	1.02

(Sec. 16(g), 76 Stat. 612, 16 U.S.C. 590p(g); secs. 105(c)(5) and 105(c)(6), 76 Stat. 612, 7 U.S.C. 1441 note)

Issued at Washington, D.C., this 6th day of June 1963.

H. D. GODFREY,
Administrator,
Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-6133; Filed, June 13, 1963; 8:45 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 815.4, Amdt. 1]

PART 815—ALLOTMENT OF SUGAR QUOTAS—PUERTO RICO

Calendar Year 1963

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (hereinafter called the "Act") for the purpose of amending Sugar Regulation 815.4 (27 F.R. 12888), which established allotments of the direct-consumption portion of the 1963 mainland quota for Puerto Rico.

This amendment of S.R. 815.4 is necessary to give effect to Amendment 5 of Sugar Regulation 811 (28 F.R. 4696) which established the direct-consumption portion of the 1963 mainland quota for Puerto Rico of 156,000 short tons, raw value, a quantity 9,000 tons greater than the 147,000 short tons, raw value, previously allotted and to allot the larger quantity in accordance with findings heretofore made.

Findings heretofore made by the Secretary in the course of this proceeding (28 F.R. 12888) provide that this order shall be revised without further notice or hearing for the purposes indicated above and such findings set forth the procedure for the revision of allotments.

Effective date. It is hereby determined and found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and, consequently, the amendment made herein shall become effective upon publication in the FEDERAL REGISTER.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act, and in accordance with the findings and conclusions heretofore made, it is hereby ordered that paragraph (a) of § 815.4 be amended to read as follows:

§ 815.4 Allotment of the direct-consumption portion of mainland sugar quota for Puerto Rico for the calendar year 1963.

(a) *Allotments.* The direct-consumption portion of the 1963 sugar quota for Puerto Rico amounting to 156,000 short tons, raw value, is hereby allotted as follows:

Allottee:	*Direct-consumption allotment (short tons, raw value)*
Central Aguirre Sugar Co., a trust	5,553
Central Roig Refining Co	21,881
Central San Francisco	1,578
Puerto Rican American Sugar Rfy., Inc	101,646
Western Sugar Refining Co	25,292
Liquid sugar reserve for persons other than named above	50
Total	156,000

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 205, 209; 61 Stat. 926, 928; 7 U.S.C. 1115, 1119; Public Law 87-535)

Done at Washington, D.C., this 10th day of June 1963.

RAY FITZGERALD,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-6289; Filed, June 13, 1963; 8:53 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[970.303 Amdt. 4]

PART 970—CARROTS GROWN IN SOUTH TEXAS

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 142 and Order No. 970 (7 CFR Part 970), regulating the handling of carrots grown in designated counties in South Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the South Texas Carrot Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that (1) shipments of 1962-63 crop South Texas carrots are practically completed, (2) to maximize benefits to growers, this amendment should apply to as many remaining shipments of carrots as possible, and (3) special preparation on the part of handlers is not required since this amendment relieves restrictions on the handling of carrots grown in the production area.

Order, as amended. In § 970.303 (27 F.R. 10746; 28 F.R. 962, 2957, 4494) delete paragraph (b) *Sizing requirements* and paragraph (b) is, therefore, reserved.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 10, 1963, to become effective June 11, 1963.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 63-6257; Filed, June 13, 1963; 8:47 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter II—Employment and Compensation in the Canal Zone

PART 201—GENERAL

Additional Exclusion

Effective upon publication in the FEDERAL REGISTER, § 201.100 is amended by adding a paragraph (d) thereto to read as follows:

§ 201.100 Exclusions.

* * * * *

(d) The following positions, and the incumbents thereof, are excluded from § 204.12 of the regulations in this chapter:

(1) Temporary student assistants.

(2 C.Z.C. sections 142(b)(1), 155, 76A Stat. 16, 19; E.O. 10794, 23 F.R. 9627, 3 CFR 1958 Supp.)

CYRUS R. VANCE,
Secretary of the Army.

[F.R. Doc. 63-6255; Filed, June 13, 1963; 8:47 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. FSLIC-1,591]

PART 563—OPERATIONS

Sales Plans and Sales Commissions

JUNE 10, 1963.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amendment of Part 563 of the rules and regulations for insurance of accounts (12 CFR Part 563) as hereinafter set forth, and for the purpose of effecting such amendments, hereby amends said Part 563 as follows, effective June 14, 1963:

1. Amend § 563.24 to read as follows:

§ 563.24 Sales plans; give-aways.

Every applicant for insurance which uses salesmen, sales agencies, surplus certificates, or other sales plans shall submit, with its application, full details thereof. No insured institution shall, directly or indirectly, enter into, extend, or renew any contract, agreement, understanding, or arrangement that authorizes or permits any person other than such institution itself to promise, offer, or give a give-away, or to pay or absorb any of the cost of a give-away promise, offered, or given for or in connection with the solicitation, the opening or any increase of any account in such institution, or which authorizes or permits any person other than such institution itself to pay or to absorb any of the cost of any give-away advertising for or in connection with any such solicitation, opening, or increase; and no such institution shall accept the opening or any increase of any account for or in connection with which any person other than such institution gives a give-away or pays or absorbs any of the cost of any give-away advertising, or of any give-away given, for or in connection with any such solicitation, opening, or increase. An insured institution shall not, for the opening or increasing of any account, give for any one such opening or any one such increase any give-away that has a monetary value in excess of $2.50. The monetary value of any give-away so given shall be the cost thereof to the insured institution and the insured institution shall keep in its records for a period of at least two years suitable evidence of such cost. If the give-away is purchased or obtained by the insured institution together with, in connection with, or at the same time as another item or other items from the same supplier, not identical therewith, such value shall be deemed to be the then current regular selling price or charge of the supplier on separate sales or dispositions thereof in the quantity included, and the insured institution shall in such case obtain, and keep in its records for a period of at least two years, a signed statement by such supplier of such regular selling price or charge. As used in the foregoing provisions of this section, the term "give" means to give, to sell or dispose of for less than full monetary value as hereinbefore defined, or with any agreement or undertaking, contingent or otherwise, for repurchase or redemption, whether total or partial, or to offer, promise, or agree to do any of the foregoing; the term "give-away" means any money, property, service, or other thing of value, whether tangible or intangible; and the term "account" means an account of an insurable type.

2. Amend paragraphs (a), (b) and (c) of § 563.25 to read as follows:

§ 563.25 Sales commissions.

(a) *General provisions.* Except as provided in paragraphs (b), (c), (d), and (e) of this section, no insured institution shall, directly or indirectly—

(1) Pay any sales commission except to an employee of such institution;

(2) Pay to any employee of such institution any sales commission the payment or the amount of which is based in whole or in part upon the opening or increasing of any account or accounts in such institution, except a prize in cash or otherwise for participating in a new account drive or contest conducted by such institution; or

(3) Allow to any person any discount or rebate on or with respect to any account in such institution if the allowance or the amount of such discount or rebate is dependent in whole or in part upon another person's having solicited or obtained the opening or increasing of any account or accounts in such institution, or enter into any contract or agreement under which any person other than such

institution is allowed to collect or receive from any other person (except such institution) any compensation for or in connection with the opening or increasing of any account or accounts in such institution; or

(4) Enter into, extend, or renew any contract, agreement, understanding, or arrangement, which authorizes or permits any person other than such insured institution itself to pay, or utilize any device whatsoever pursuant to which any person other than such insured institution pays, any compensation to any person for or in connection with the solicitation, the opening, or any increase of any account in such institution or for any advertising in connection with any such solicitation, opening, or increase, or accept the opening of or any increase in any account in connection with which any person other than such insured institution pays any compensation to any person for or in connection with the solicitation, the opening, or any increase of any account in such institution or for any advertising in connection with any such solicitation, opening, or increase.

(b) *Exceptions.* The provisions of this section shall not prohibit any action which (1) is permitted by paragraph (c), paragraph (d), or paragraph (e) of this section or (2) constitutes the giving of a giveaway within the meaning of § 563.24 but is not prohibited by § 563.24 for the reason that such give-away does not exceed the monetary value (as defined in said § 563.24) which is permitted by said section.

(c) *Use of brokers*—(1) *General provisions.* The provisions of this section shall not prohibit the payment by any insured institution, within the limitations of this paragraph (c), of sales commissions to brokers, but no insured institution shall accept the opening or any increase of any account as a result of services of any broker or brokers or pay any sales commission pursuant to the permission granted by this paragraph (c) at any time when the outstanding balances of all accounts in such institution which were opened or increased as a result of services of any broker or brokers aggregate a total in excess of five percent of the total of all accounts in such institution at the close of the next preceding December 31 or the next preceding June 30, whichever is later.

(2) *Limitations.* Sales commissions permitted by this paragraph (c) shall be only such as are payable to a broker with respect to an account or accounts opened or increased as a result of services of such broker. No such commissions shall exceed, in amount or value, two percent of the amounts paid in for the opening of the accounts involved, in the case of accounts opened, or two percent of the amounts paid in for the increases involved, in the case of accounts increased. As used in this paragraph (c), the term "broker" means a person employed, engaged, or retained by an institution for services consisting in whole or in part of soliciting or obtaining the opening or increasing of accounts in such institution, except (i) an individual who is an officer, a director, or an employee of such institution, or (ii) an agent (as defined in paragraph (d) of this section) or a salesman (as defined in paragraph (e) of this section) utilized by such institution under circumstances permitting the payment of sales commissions to such agent or salesman under said paragraph (d) or said paragraph (e).

(3) *Maintenance of records; requirement of written agreements.* Each insured institution that accepts any account or any increase in any account as a result of the services of any broker or brokers or that pays any sales commission to any broker or brokers shall, in addition to maintaining such other records as will establish compliance with the provisions of this section, (i) before it accepts any such account or increase, and before it pays any such commission, identify each outstanding account that was opened or increased as a result of services of any broker or brokers, (ii) similarly identify each account that is opened or increased subsequent to the effective date of this section as a result of services of any broker or brokers, (iii) establish and maintain by a separate ledger control or otherwise a record which shows at all times the aggregate of the outstanding balances of all accounts that were opened or increased as a result of services of any broker or brokers, and (iv) make and retain an itemized record of each payment of sales commission to any broker, identifying each account and stating the amount thereof in respect to which such sales commission is paid. No insured institution shall accept any account or any increase in any account as a result of services of any broker or pay any sales commission to any broker unless such broker is employed, engaged, or retained by such institution by agreement in writing, stating the service or services to be performed by the broker or brokers and the sales commissions to be paid, and the original or a signed duplicate of each agreement by which an insured institution employs, engages, or retains any broker shall be retained by such institution.

3. Amend paragraph (a) of § 563.26 as follows:

§ 563.26 Sales commissions; definitions.

As used in § 563.25 and in this section—

(a) The following terms have the following meanings: (1) "account" means any share, investment certificate, deposit, or savings account in any institution; (2) "compensation" means any salary, fee, commission, or other compensation, whether in the form of money, property, or otherwise; (3) "employee" except where used in paragraph (c) of § 563.25 means, and where so used includes, an individual (other than an individual who is a director of such institution) who is employed by an institution at the principal office or at another office of such institution and performs no services for such institution outside the regular lending area of such institution; (4) "officer" means the president, a vice-president, the secretary, or the treasurer of an institution; (5) "regular lending area" means the territory within fifty miles of an institution's principal office and the territory within which such institution was, within the meaning of the first sentence of § 563.9, operating on June 27, 1934; and (6) "sales commission" means any compensation which in whole or in part is compensation for soliciting or obtaining the opening or increasing of an account or accounts in an insured institution or any compensation by an insured institution to a person engaged in whole or in part in soliciting or obtaining the opening or increasing of accounts in any such institution; and

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that, as a number of insured institutions have recently found it necessary or advisable to reduce the rates of dividends, interest, or other return on their shares, deposits, or other withdrawable accounts and have done so or announced their intention to do so, and in the judgment of the Board other institutions will in the near future find it necessary or advisable to take similar action, and as, in the judgment of the Board, acts and practices prohibited by the above amendments will, unless prohibited, facilitate the raiding of the shares, deposits, or other withdrawable accounts of such institutions by other insured institutions through the use of such acts and practices, thus creating possibilities of endangering through such means the safety and soundness of such institutions taking such action, the Board hereby finds that notice and public procedure thereon are impracticable and contrary to the public interest under the provisions of § 508.12 of the general regulations of the Federal Home Loan Bank Board or section 4(a) of the Administrative Procedure Act, and the Board hereby finds that for the same reason the publication of said amendments for the period specified in section 4(c) of said act prior to the effective date of said amendment is unnecessary and hereby provides that said amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 63-6256; Filed, June 13, 1963; 8:47 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 6 Amdt. 6]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of a Small Business for the Purpose of Receiving Priority as a Claimant

On April 24, 1963, there was published in the FEDERAL REGISTER (27 F.R. 4028) a notice of proposal to amend the Small

Business Size Standards Regulation (Revision 3), as amended, by establishing a definition of a small business for the purpose of receiving priority as a claimant under § 213(a) of the War Claims Act of 1948, as amended.

Interested persons were given an opportunity to present their comments or suggestions thereto to the Office of Small Business Size Standards within 15 days after the date of publication of the notice in the FEDERAL REGISTER. The Small Business Administration received no adverse comments on the proposed amendment. After consideration of all such relevant matters regarding the proposal, the amendment set forth below is hereby adopted.

The Small Business Size Standards Regulation (Revision 3) (27 F.R. 9757), as amended (27 F.R. 11313, 12438; 28 F.R. 153, 2979, 3323), is hereby further amended by adding new § 121.3–13 as follows:

§ 121.3–13 Definition of small business for receiving priority payment under section 213(a) of the War Claims Act of 1948, as amended.

(a) *Small business claimant.* A small business claimant for the purpose of receiving priority payment from the Secretary of the Treasury under section 213(a) of the War Claims Act of 1948, as amended, is a concern which on the date of loss, damage, or destruction was a small business concern within the meaning of § 121.3–10 in effect on October 22, 1962 (27 F.R. 9757).

(b) *Request for size determination.* The Director, Office of Small Business Size Standards, shall, upon the request of the Foreign Claims Settlement Commission of the United States, determine the size status of a claimant, provided, however, that said Commission certifies to SBA that the claimant qualifies under section 202(a) of the War Claims Act of 1948, as amended.

Effective date: This amendment shall become effective upon publication in the FEDERAL REGISTER.

Dated: June 7, 1963.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 63-6254; Filed, June 13, 1963; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 1793; Amdt. 13–1]

PART 13—ENFORCEMENT PROCEDURES [NEW]

Miscellaneous Amendments

The purpose of these amendments is to make technical improvements in the regulation and to clarify certain provisions. No change in policy or impairment of procedural rights is involved.

Revised paragraph (c) of § 13.19 reflects the practice of sending to the certificate holder, together with the statement of charges, a form on which he initially may mark one of the four procedural choices he has. The right to ask for a hearing in addition to an informal conference should be exercised only after the conference, and the rule is being clarified to this effect. The revised rule also codifies the practice of issuing the Administrator's order in case of default of the certificate holder and contains a reference to the provisions governing when a hearing is requested.

Section 13.35 is amended by making editorial improvements; making the language dovetail with revised § 13.19(c); expressly referring to the right to make a motion; and making express provision for the contingency that the Hearing Officer does not take jurisdiction upon a belated request. Present paragraph (c) is omitted since its provisions have been inserted elsewhere by these amendments.

Section 13.31 is amended to correct inadvertent language purporting to limit the scope of Subpart C to hearings involving airman certificates, while of course these provisions apply as well in cases involving any other certificates. Section 13.45 is amended by striking the last sentence which reads as though amendments of the pleadings to conform to the evidence could be made as a matter of right. This change will make such amendments subject to the ruling of the Hearing Officer. This is the rule in the federal courts (F.R.C.P., Rule 15(a)(b)).

Section 13.49(a) is amended to make clear that failure of the allegations in the charges to show a violation of the Act or regulations or a lack of qualification may be asserted by motion to dismiss. A provision fixing the time for answers to motions is also added to this section. The policy of not holding hearings outside of the 50 States, the District of Columbia and Puerto Rico is codified by amendment to § 13.55.

Section 13.67 is amended by combining the provisions of present paragraphs (a) and (c) and spelling them out more clearly. It is also made clear that in appropriate cases the proceeding will be ordered terminated only upon actual payment of the civil penalty agreed upon.

Editorial improvements are made in several of the provisions mentioned.

Since these amendments are procedural in nature, notice and public procedure thereon are not required and the amendments may be made effective less than 30 days after publication.

In consideration of the foregoing, effective July 16, 1963, Part 13 [New] of the Federal Aviation Regulations is amended as follows:

§ 13.19 [Amendment]

1. Paragraph (c) of § 13.19 is amended to read as follows:

(c) Before issuing an order under paragraph (b) of this section, the General Counsel or the Regional Counsel concerned advises the certificate holder of the charges or other reasons upon which the Administrator bases the proposed action and, except in an emergency, allows the holder to answer any charges and to be heard as to why the certificate should not be amended, suspended, or revoked. The holder may, by checking the appropriate box on the form that is sent to him with the Notice of Proposed Certificate Action, elect to—

(1) Admit the charges and surrender his certificates;

(2) Answer the charges in writing;

(3) Request an opportunity to be heard in an informal conference with the FAA counsel; or

(4) Request a formal hearing.

Except as provided in § 13.35(b), unless the holder returns the form and, where required, an answer or motion, with a postmark of not later than 15 days after the date he received the notice, the order of the Administrator is issued as proposed. If the holder has requested an informal conference with the FAA counsel, he may after that conference also request a formal hearing in writing with a postmark of not later than 10 days after the close of the conference. After considering any information submitted by the holder the General Counsel or the Regional Counsel concerned issues the order of the Administrator, except that if the holder has made a valid request for a formal hearing initially or after an informal conference, Subpart C of this Part governs further proceedings.

2. Section 13.31 is amended to read as follows:

§ 13.31 Applicability.

This subpart applies to proceedings in which the holder of a certificate has made a request under § 13.19 for a formal hearing before a Hearing Officer of the FAA.

3. Section 13.35 is amended to read as follows:

§ 13.35 Request for hearing.

(a) If the certificate holder elects to have a formal hearing, either after he receives the Notice of Proposed Certificate Action or after an informal conference with the FAA counsel, he shall submit his answer to the allegations in the notice, or file a motion under § 13.49, together with his request for a formal hearing as provided in § 13.19(c).

(b) If the certificate holder submits a request for formal hearing, and his answer or motion, after the 15- or 10-day period provided in § 13.19(c), but before an order is issued, the FAA counsel sends it to the Hearing Officer. If, in the opinion of the Hearing Officer, there was good cause for the failure to submit a timely request for hearing, or answer or motion, he may, in his discretion, entertain the motion or order a hearing. If he does not do so, the General Counsel or Regional Counsel issues the order of the Administrator.

§ 13.45 [Amendment]

4. Section 13.45 is amended by striking out the last sentence thereof.

5. Section 13.49 is amended by amending the first sentence of paragraph (a) and by redesignating paragraph (d) as (b) and paragraphs (b) and (c) as (c) and (d), respectively, so that § 13.49 (a) to (d) reads as follows:

§ 13.49 Motions.

(a) *Motion to dismiss.* A respondent who requests a formal hearing may, in place of his answer, file a motion to dismiss for failure of the allegations in the Notice of Proposed Certificate Action to state a violation of the Act or of this chapter or to show lack of qualification of the respondent. If the Hearing Officer denies the motion, the respondent shall file his answer within 10 days.

(b) *Motion for more definite statement.* The certificate holder may, in place of his answer, file a motion that the allegations in the notice be made more definite and certain. If the Hearing Officer grants the motion, the Agency counsel shall comply within 10 days after the date it is granted. If the Hearing Officer denies the motion the certificate holder shall file his answer within 10 days after the date it is denied.

(c) *Motion for judgment on the pleadings.* After the pleadings are closed, either party may move for a judgment on the pleadings.

(d) *Motion to strike.* Upon motion of either party, the Hearing Officer may order stricken, from any pleading, any insufficient allegation or defense, or any immaterial, impertinent, or scandalous matter.

6. Section 13.49 is further amended by adding the following new paragraph at the end thereof:

(g) *Answers to motions.* Any party may file an answer to any motion under this section within five days after service of the motion.

§ 13.55 [Amendment]

7. Section 13.55 is amended by adding the following new sentence at the end thereof: "Hearings are held only within the 50 States, the District of Columbia, and Puerto Rico."

8. Section 13.67 is amended to read as follows:

§ 13.67 Order of Hearing Officer.

(a) The Hearing Officer shall include in the order a statement of his findings and conclusions upon all material issues of fact and law. If the Hearing Officer determines that safety in air commerce or air transportation and the public interest so require, he may issue an order amending, suspending or revoking the respondent's certificate; issue a reprimand; or terminate the proceeding upon payment by the respondent of a civil penalty in an amount agreed upon by the parties, as the case may be. However, any certificate sanction imposed may not be more severe than that proposed in the Notice of Proposed Certificate Action. If the Hearing Officer finds that the allegations of the notice have not been proved or that no sanction is required, he shall rescind the notice.

(b) If the order is issued in writing, it shall be served upon the parties.

(c) If the Hearing Officer orders respondent's certificate to be amended, suspended or revoked, he shall state in the order that the respondent has the right to appeal to the Civil Aeronautics Board.

These amendments are made under the authority of sections 303(d), 307, 313(a), 501–505, 601–610, and 1001 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1344, 1348, 1354, 1401–1405, 1421–1430, and 1481).

Issued in Washington, D.C., on June 7, 1963.

N. E. HALABY,
Administrator.

[F.R. Doc. 63-6246; Filed, June 13, 1963; 8:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55915]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

PART 16—LIQUIDATION OF DUTIES

PART 25—CUSTOMS BONDS

Temporary Importations Under Bond

On February 6, 1963, there was published in the FEDERAL REGISTER a notice of proposed rulemaking setting forth proposed amendments to the Customs Regulations relating to temporary importations under bond to (1) permit entry and clearance of articles under temporary importation bond entries with only such examination as is necessary to enable the collector to establish that the importation is in agreement with the invoice or entry and for the purpose of accepting the entry under the applicable provisions of the tariff act, supplemented by occasional spot checks, (2) eliminate examination for appraisement, and (3) increase the amount of the bond.

Representations received in response to the notice indicated that conforming amendments were also required in §§ 10.38(a) and 16.2(d) of the regulations and that a provision was needed to cover articles not frequently bought and sold as, for instance, model gowns and race horses, whose true value might be established to be much greater than their entered value.

Accordingly, the Customs Regulations are amended as follows, effective on and after July 15, 1963:

1. Section 10.31(c) is amended by changing "presented for examination" to "presented for entry" at the end of the first sentence, by deleting "and the article shall be appraised according to its value at the time of such arrival" at the end of the second sentence, and by adding an additional sentence reading as follows: "The estimated duties for the purpose of fixing the amount of any bond required by paragraph (f) of this section shall be the estimated duties which would have been required to be deposited had the article been entered under an ordinary consumption entry on the date of the original arrival."

so that the paragraph will read as follows:

(c) When any article has been admitted without formal entry or security for exportation and the importer thereafter desires to prolong his stay beyond 90 days, an entry covering the article and security for its exportation shall be accepted at any port where the article may be presented for entry. Whenever an entry is substituted under the provisions of this paragraph for a certificate on customs Form 4447, the time during which the imported article may remain in the United States under the entry shall be computed from the date of its original arrival in the United States. The estimated duties for the purpose of fixing the amount of any bond required by paragraph (f) of this section shall be the estimated duties which would have been required to be deposited had the article been entered under an ordinary consumption entry on the date of the original arrival.

2. Section 10.31(e) is amended by deleting the second sentence thereof and substituting the following: "Examination of the articles shall be made whenever the circumstances warrant, and occasionally in any event to an extent which will enable the collector to determine that the importation is in agreement with the invoice or entry as to identity and quantity and for the purpose of accepting the entry under the applicable provisions of section 308. No examination for the purpose of appraisement and no appraisement of the articles shall be made."

so that the paragraph will read as follows:

(e) The entry or invoice shall describe each article in detail and set forth any marks or numbers thereon or other distinguishing features thereof, together with the value of each item. Examination of the articles shall be made whenever the circumstances warrant, and occasionally in any event to an extent which will enable the collector to determine that the importation is in agreement with the invoice or entry as to identity and quantity and for the purpose of accepting the entry under the applicable provisions of section 308. No examination for the purpose of appraisement and no appraisement of the articles shall be made.

3. The first sentence of § 10.31(f) is amended to read as follows:

(f) A bond shall be given on customs Form 7563 in an amount equal to double the duties which it is estimated would accrue (or such larger amount as the collector of customs shall state in writing to the entrant is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry.

4. Section 10.31(h) is amended to read as follows:

(h) After the entry and bond have been accepted, the articles may be released to the importer. The entry shall not be liquidated as the transaction does not involve liquidated duties. (Sec. 308, 46 Stat. 690, as amended; 19 U.S.C. 1308.)

5. Section 10.38(a) is amended to read as follows:

(a) Articles entered under a temporary importation bond may be exported at the port of entry or at another port. An application on customs Form 3495 shall be filed with the collector a sufficient length of time in advance of exportation to permit the examination and identification of the articles if circumstances warrant such action and, in such event, the applicant shall be notified on customs Form 3497 where the articles are to be sent for identification.

6. Section 10.38(e) is amended by deleting the citation of authority at the end thereof. Section 10.38 is amended by adding the following paragraph at the end thereof:

(f) Whenever the circumstances warrant, and occasionally in any event, collectors of customs shall cause the fact of exportation to be verified by the Customs Agency Service in harmony with the procedures provided for in §§ 18.7 and 22.43 of this chapter. (Sec. 308, 46 Stat. 690, as amended; 19 U.S.C. 1308.)

7. The first sentence of § 10.39(d), § 10.39(e)(4), and § 10.39(f) are amended by substituting "double" for "one and one-quarter times" whenever it appears therein.

(Secs. 308, 623, 624, 46 Stat. 690, as amended, 759, as amended; 19 U.S.C. 1308, 1623, 1624)

8. In view of the discontinuance of liquidation of temporary importation bond entries, § 16.1 is amended to read as follows:

§ 16.1 Liquidation required.[1]

All entries covering imported merchandise, except temporary importation bond entries and those for transportation in bond or for immediate exportation, shall be liquidated.[2]

(Sec. 505, 46 Stat. 732; 19 U.S.C. 1505)

9. In view of the discontinuance of liquidation of temporary importation bond entries references to temporary importation entries are deleted from the first 3 sentences of § 16.2(d), so that they will read as follows:

(d) After liquidation by the collector, formal entries, except free consumption entries liquidated "As Entered" and permanent exhibition entries liquidated "Free" shall be scheduled promptly on a bulletin notice of liquidation, customs Form 4333. Free consumption entries liquidated "As Entered" and permanent exhibition entries liquidated "Free" shall be scheduled promptly on a bulletin notice of liquidation, customs Form 4335. When free consumption entries in an unbroken series of numbers are liquidated free on the same day, the first and last entry numbers may be shown on the bulletin notice, e.g., "576/863," instead of listing every number in the unbroken series.

(Sec. 505, 46 Stat. 732; 19 U.S.C. 1505)

Section 25.4(a)(15) is amended by substituting "double" for "one and one-quarter times" therein.

(Secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 1623, 1624)

[SEAL] PHILIP NICHOLS, Jr.,
Commissioner of Customs.

Approved: June 5, 1963.

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 63-6279; Filed, June 13, 1963; 8:52 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

Enriched Corn Grits

A notice of proposed rule making was published in the FEDERAL REGISTER of February 15, 1963 (28 F.R. 1482), setting forth a proposal filed by the Quaker Oats Company, Barrington, Illinois, to amend the standard of identity for enriched corn grits (21 CFR 15.514) by deleting the requirement that the enriching nutrients be so added as to meet a prescribed rinse-resistance test. The only comment filed was a reminder from the Executive Secretary of the National Academy of Sciences that the Food and Nutrition Board had endorsed the amendment prior to the filing of the petition. On the basis of the relevant information available it is concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the amendment proposed. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625): *It is ordered,* That § 15.514 *Enriched corn grits; identity* be amended as follows:

1. By deleting from paragraph (a)(3) the final sentence, which reads: "When the finished food is tested by the method prescribed in paragraph (c) of this section it complies with the requirements set forth therein."

2. By deleting paragraph (c), which details the method for performing the test for rinse resistance.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed preferably in quintuplicate.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended amended 70 Stat. 919; 21 U.S.C. 341, 371)

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner, of Food and Drugs.

[F.R. Doc. 63-6262; Filed, June 13, 1963; 8:48 a.m.]

PART 17—BAKERY PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

Bread; Order Amending Standard of Identity by Including Calcium Bromate as Optional Ingredient

In the matter of amending the standard of identity for bread to provide for the use of calcium bromate as permitted optional ingredient:

The Commissioner of Food and Drugs has considered the comments received in response to the notice of proposed rule making in the above-referenced matter published in the FEDERAL REGISTER of April 5, 1963 (28 F.R. 3354), and has concluded that it will promote honesty and fair dealing in the interest of consumers to amend the definitions and standards of identity for bread, as set forth in the proposal. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625): *It is ordered,* That the standard of identity for bread be amended by inserting the words "calcium bromate" immediately after the words "potassium bromate" in paragraph (a)(12) of the standard, so that as amended the subparagraph reads as follows:

§ 17.1 Bread, white bread, and rolls, white rolls, or buns, white buns; identity; label statement of optional ingredients.

(a) * * *

(12) Potassium bromate, calcium bromate, potassium iodate, calcium iodate, calcium peroxide, or any combination of two or more of these; but the total quantity thereof (including the potassium bromate in any bromated flour used) is

not more than 0.0075 part for each 100 parts by weight of flour used.

Because of the cross-references that occur in the standards for related bread products, the amendment to paragraph (a) of § 17.1 as herein ordered, results in the amendment being applicable to § 17.2 *Enriched bread* * * *, § 17.3 *Milk bread* * * *, § 17.4 *Raisin bread* * * *, and § 17.5 *Whole wheat bread* * * *.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed preferably in quintuplicate.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-6263; Filed, June 13, 1963; 8:48 a.m.]

PART 19—CHEESES; PROCESSED CHEESES; CHEESE FOODS; CHEESE SPREADS, AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

PART 25—DRESSINGS FOR FOODS

Sodium Carboxymethylcellulose; Confirmation of Effective Date of Order Adding "Cellulose Gum" as an Alternative Name in Food Standards

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625), notice is given that no objections were filed to the order published in the FEDERAL REGISTER of April 27, 1963 (28 F.R. 4178), amending the standards of identity for designated cheese products, french dressing, and salad dressing (21 CFR 19.775, 19.776, 19.780, 19.781, 19.782, 19.783, 25.2, and 25.3) by listing "cellulose gum" as an alternative name for "sodium carboxymethylcellulose". Accordingly, the amendments promulgated by that order will become effective June 26, 1963.

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-6264; Filed, June 13, 1963; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ETHYLENE-ALKENE-1 COPOLYMERS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Eastman Chemical Products, Inc., Kingsport, Tennessee, and other relevant material, has concluded that the food additive regulations should be amended by changing the solubility specifications of ethylene-alkene-1 copolymers in xylene. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.2508 *Ethylene-alkene-1 copolymers* (21 CFR 121.2508) is amended by changing paragraph (b)(2)(i)(*a*) and (iii)(*a*) to read:

(b) * * *
(2) * * *
(i) * * *

(*a*) Maximum soluble fraction of 30.0 percent in xylene after refluxing and subsequent cooling to 25° C.

* * * * *

(iii) * * *

(*a*) Maximum soluble fraction of 30.0 percent in xylene after refluxing and subsequent cooling to 25° C.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-6265; Filed, June 13, 1963; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by American Cyanamid Company, Berdan Avenue, Wayne, New Jersey, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of *N-tert*-butylacrylamide in polymers employed as constituents of food-packaging adhesives. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.2520(c)(5) is amended by inserting in the list "Components of adhesives" under the item "Polymers: Homopolymers and * * *" after the monomer "Butene" the new monomer "*N-tert*-Butylacrylamide."

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-6266; Filed, June 13, 1963; 8:50 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS FOR PAPER AND PAPERBOARD

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by E. I. du Pont de Nemours and Company, Inc., Wilmington 98, Delaware, and United States Rubber Company, Elm Street, Naugatuck, Connecticut, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of additional substances in the formulation of resinous and polymeric food-contact coatings for paper and paperboard. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.2526(b) is amended to read as follows:

§ 121.2526 Resinous and polymeric coatings for paper and paperboard.

* * * * *

(b) The coatings are formulated from:

(1) Substances identified in § 121.2514 (b), with the exception of paragraph (b)(3)(xxxi) and (xxxii) of that section.

(2) Substances identified in this subparagraph:

List of substances	Limitations
Butadiene-styrene-itaconic acid copolymer.	
Dibutyl phthalate	
Dicyclohexyl phthalate	
Ethyl acetate	
Ethyl alcohol	
Nitrocellulose, 10.9 percent–12.2 percent nitrogen.	
Rosin (wood, gum, or tall oil rosin) esterified with methyl alcohol and condensed with the reaction product of maleic anhydride, ethylene glycol, and phthalic anhydride.	
Toluene	
Toluenesulfonamide-formaldehyde resin.	
Wax, petroleum	Conforming to specifications in a regulation in this subpart F or in an order extending the effective date of the food additive amendment for use as an indirect additive to food.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-6267; Filed, June 13, 1963; 8:50 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

FILTERS, RESIN-BONDED

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed jointly by Monsanto Chemical Company, 812 Monsanto Avenue, Springfield, Massachusetts, and Cuno Engineering Corporation, 80 South Vine Street, Meriden, Connecticut, and other relevant material, has concluded that the food additive regulations should be amended to permit the use of additional substances in the production of resin-bonded filters, to provide for filtering potable water, and to raise the total extractives from 0.2 percent to 0.5 percent by weight of the filter when exposed to *n*-hexane and used in contact with food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.2536 *Filters, resin-bonded* (21 CFR 121.2536; 28 F.R. 1290) is amended as follows:

1. Paragraph (d)(1) is amended by inserting therein, in alphabetical order, the following new item:

Cellulose pulp.

2. Paragraph (d)(3) is amended by inserting therein, in alphabetical order, the following new items:

Melamine-formaldehyde chemically modified with one or more of the amine catalysts identified in § 121.2514(b)(3)(xiii).

p-Toluenesulfonamide-formaldehyde chemically modified with one or more of the amine catalysts identified in § 121.2514(b)(3)(xiii).

3. Paragraph (e)(2) is amended to read:

(2) *Conditions of use.* It is used to filter milk or potable water at operating temperatures not to exceed 100° F.

4. Paragraph (f)(2) is amended to read:

(2) *Conditions of use.* It is used to filter milk or potable water at operating temperatures not to exceed 145° F.

5. Paragraph (g)(1) is amended to read:

(1) *Total extractives.* The finished filter, when exposed to *n*-hexane at reflux temperature for 2 hours, yields total extractives not to exceed 0.5 percent by weight of the filter.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-6268; Filed, June 13, 1963; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

PART 7—CONTRACT CLAUSES

PART 16—PROCUREMENT FORMS

Miscellaneous Amendments

The following amendments to this subchapter are issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to the authority contained in Department of Defense Directive No. 4105.30, dated March 11, 1959 (24 F.R. 2260), as amended, and 10 U.S.C. 2202.

1. Paragraph (b) of § 7.104-42 is revised to read as follows:

§ 7.104-42 Subcontractor cost and pricing data.

* * * * *

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which exceed $100,000 other than those described in paragraph (a) of this section:

SUBCONTRACTOR COST AND PRICING DATA—PRICE ADJUSTMENTS (MAY 1963)

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any change or other modification made pur-

suant to one or more provisions of this contract which involves a price adjustment in excess of $100,000. The requirements of this clause shall be limited to such price adjustments.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances: (i) prior to award of any cost-reimbursement type, incentive, or price redeterminable subcontract; (ii) prior to the award of any subcontract the price of which is expected to exceed $100,000; (iii) prior to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000; except in the case of (ii) or (iii) where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000.

* * * * *

2. Section 16.206–2 is revised to read as follows:

§ 16.206–2 DD Form 633 (Cost and Price Analysis).

This form shall be used whenever cost analysis is required; provided, however, that departures from the DD Form 633 format are authorized in the following circumstances:

(a) The contractor may submit necessary data in a format acceptable to the contracting officer where the contractor's accounting system makes the use of this form impracticable;

(b) Other forms authorized by the Department concerned if approved by the Office of the Assistant Secretary of Defense (Comptroller) (See DOD Instruction No. 7760.1, dated September 30, 1955) may be used; or

(c) The Special Cost and Price Analysis Forms referenced in § 16.206–3 may be used.

[ASPR Rev. 1, May 23, 1963] (Sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 63–6270; Filed, June 13, 1963; 8:50 a.m.]

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 536—CLAIMS AGAINST THE UNITED STATES

Claims Incident to Use of Government Vehicles and Other Property of the United States not Cognizable Under Other Law

Sections 536.161 to 536.170 are hereby prescribed to read as follows:

Sec.
536.161 Statutory authority.
536.162 Definitions.
536.163 Scope.
536.164 Claims payable.
536.165 Claims not payable.
536.166 When claim must be presented.
536.167 Procedures.
536.168 Settlement agreement.
536.169 Settlement authority.
536.170 Claims over $1,000.

AUTHORITY: §§ 536.161 to 536.170 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply sec. 2736, 76 Stat. 767; 10 U.S.C. 2736.

SOURCE: AR 25–35, 13 May 1963.

§ 536.161 Statutory authority.

The statutory authority for §§ 536.161–536.170 is contained in the act of October 9, 1962 (76 Stat. 767), commonly known as the "Non-Scope of Employment Claims Act of 1962."

§ 536.162 Definitions.

The definitions of terms set forth in § 536.3 of this subchapter are applicable to §§ 536.161–536.170 unless otherwise defined herein:

(a) *Civilian official or employee.* Includes civilian officials or employees of the Department of the Army, or of the Army, paid from appropriated funds at the time the incident resulting in the claim occurred.

(b) *Government installation.* A United States Government facility having fixed or relatively fixed boundaries owned or controlled by the Government.

(c) *Vehicle.* Includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land (1 U.S.C. 4).

§ 536.163 Scope.

Sections 536.161–536.170 prescribed the substantive bases and special procedural requirements for the settlement of claims against the United States not cognizable under any other provision of law, determined to be meritorious in an amount not more than $1,000, for damage to, or loss of property, or personal injury or death caused by a member of the Army or a civilian official or employee of the Department of the Army, or of the Army, incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation.

§ 536.164 Claims payable.

(a) *General.* A claim for personal injury, death, or damage to or loss of property, real or personal, which arose on and after 9 October 1962 is payable under §§ 536.161–536.170 when:

(1) Caused by a member of the Army, or a civilian official or employee of the Department of the Army, or the Army.

(i) Incident to the use of a vehicle of the United States at any place.

(ii) Incident to the use of any other property of the United States on a Government installation.

(2) The claim is not cognizable under any other provision of law and regulations.

(3) The claim has been determined to be meritorious in an amount not in excess of $1,000, and the approving authority has obtained a settlement agreement in full satisfaction of the claim prior to approval of the claim for payment.

(b) *Personal injury or death.* A claim for personal injury or death is allowable only for the cost of reasonable medical, hospital, and burial expenses actually incurred, not otherwise furnished or paid by the United States.

§ 536.165 Claims not payable.

A claim is not allowable under §§ 536.161–536.170 which:

(a) Is cognizable under any other provision of law administered by the military departments or regulations of the Department of the Army.

(b) Results wholly or partly from the negligent or wrongful act of the claimant, his agent, or his employee. The doctrine of comparative negligence is not applicable.

(c) Is for medical, hospital, and burial expenses furnished or paid by the United States.

(d) Is for any element of damage pertaining to personal injuries or death other than provided in § 536.164(b). All other items of damage, for example, compensation for loss of earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering, are not payable.

(e) Is legally recoverable by the claimant under an indemnifying law or indemnity contract. If the claim is legally recoverable in part, that part recoverable by the claimant is not payable.

(f) Is a subrogated claim.

(g) Examples:

(1) The claimant has collision insurance covering his automobile with a deductible amount of $100. While the claimant is sitting in his vehicle which he parked properly in the street in front of his residence, the vehicle is struck from the rear by an Army truck operated by a civilian employee of the Department of the Army who had misappropriated the Government vehicle. The claimant sustains personal injuries requiring his hospitalization for 6 weeks during which he actually incurs medical and hospital expenses in the amount of $1,200. He has no medical or hospitalization insurance. The damage to his vehicle totals $300. The claimant's insurance carrier reimburses him in the amount of $200 for the damage to his vehicle and becomes subrogated in that amount under the terms of the policy. The claimant files a claim in the amount of $1,500, alleging $300 for property damage to his automobile and $1,200 for medical and hospital expenses. The claim is allowable in the total amount of $1,000, consisting of $100, the deductible amount for property damage under the terms of his collision insurance coverage, and $900 of the medical and hospital expenses he actually incurred. The amount claimed for medical and hospital expenses and for property damage merely constitute separable interests in a single claim which may not be allowed in an amount in excess of $1,000 under §§ 536.161–536.170. The claimant's insurer is not a proper party claimant and no payment

is allowable for the insurer's subrogated interest.

(2) Claimant has medical and hospitalization insurance under which he would be entitled to reimbursement up to the amount of $500 for the reasonable cost of medical and hospital expenses incurred by him for personal injuries. While visiting at an Army installation the claimant is wounded as the result of the negligent discharge of a Government issue caliber .45 pistol by an enlisted man who had stolen the weapon. The injury required that he be hospitalized at a civilian hospital for 1 month. During this period the claimant actually incurs medical and hospital expenses in the amount of $750. The claimant may be paid $250, the amount allowable for reasonable medical and hospital expenses actually incurred after deduction of the amount of $500 legally recoverable by him under his insurance policy.

§ 536.166 When claim must be presented.

A claim may be settled under §§ 536.161–536.170 only if the incident which gave rise to the claim occurred on or after 9 October 1962, and the claim is presented in writing within 2 years after it accrues.

§ 536.167 Procedures.

So far as not inconsistent with §§ 536.161–536.170 the procedures for the investigation and processing of claims contained in AR 25–20 will be followed.

§ 536.168 Settlement agreement.

No claim is payable under §§ 536.161–536.170 unless a settlement agreement has been obtained from the claimant accepting the amount determined to be meritorious in full satisfaction of any claim against the United States arising out of the incident.

§ 536.169 Settlement authority.

(a) *Approval authority.* Subject to the provisions of § 536.168, each of the following is delegated authority under §§ 536.161–536.170 to:

(1) *Approve claims for payment in an amount not to exceed $1,000.*

(i) The Chief, U.S. Army Claims Service, Office of The Judge Advocate General, and all officers of The Judge Advocate General's Corps assigned to that service, subject to such limitations as the Chief, U.S. Army Claims Service, may prescribe;

(ii) The commanding general of an army or comparable command, including the Military District of Washington, within the United States, its territories, possessions, and the Commonwealth of Puerto Rico, or his staff judge advocate;

(iii) Any commanding officer authorized to exercise general courts-martial jurisdiction or his staff judge advocate;

(iv) Any officer of The Judge Advocate General's Corps assigned to a maneuver claims service when designated by the commander concerned, subject to such limitations as the designating commander may prescribe;

(v) Any officer of The Judge Advocate General's Corps assigned to a disaster claims field office when designated by a commander listed in subdivision (ii) or (iii) of this subparagraph. The authority of such a designee to approve claims is limited to the monetary limits of the designating commander and such other limitation as that officer may impose;

(vi) The district and division engineer, Corps of Engineers; and the Chief of Engineers or the Chief, Legal Division, Office of the Chief of Engineers;

(vii) A chief of a command claims service when established as prescribed in § 536.26(m) of this subchapter.

(2) *Approve claims for payment in an amount not to exceed $500.* Any commanding officer not authorized to exercise general courts-martial jurisdiction, but having a judge advocate assigned to his staff, or his judge advocate.

(b) *Authority to disapprove claims.* The authority to disapprove claims under §§ 536.161–536.170 is delegated only to:

(1) The Judge Advocate General of the Army; and

(2) The Chief, U.S. Army Claims Service, Office of The Judge Advocate General, and all officers of The Judge Advocate General's Corps assigned to that service, subject to such limitations as the Chief, U.S. Army Claims Service, may prescribe.

§ 536.170 Claims over $1,000.

A claim presented in an amount over $1,000 which the claimant declines to settle for an amount determined to be meritorious not in excess of $1,000 under §§ 536.161–536.170 will be forwarded with the related file and a seven paragraph memorandum of opinion to the Chief, U.S. Army Claims Service, Office of The Judge Advocate General, Fort Holabird, Baltimore 19, Md.

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 63–6271; Filed, June 13, 1963; 8:51 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER F—RESERVE FORCES

PART 862—AIR FORCE RESERVE OFFICERS TRAINING CORPS

Former §§ 862.1 to 862.22 are rescinded and the following substituted therefor:

Sec.
862.1 Purpose.
682.2 Definitions.
862.3 Policy on officer procurement.
862.4 Mission and objectives of the Air Force ROTC.
862.5 Organization of the Air Force ROTC.
862.6 Selection of educational institutions.
862.7 Organization of the training program.
862.8 Legal requirements.
862.9 Who may not enroll in AFROTC.
862.10 Character requirements.
862.11 Loyalty requirements.
862.12 Age requirements.
862.13 Policy on eligibility for the advanced course.
862.14 Prerequisites for enrollment in the advanced course.
862.15 Categories of training for advanced ROTC.
862.16 Appointment as Reserve of the Air Force.
862.17 Extended active duty for AFROTC graduates.
862.18 Conditional enrollment in advanced course.
862.19 Enrollment of pursuing students.
862.20 Credit for previous military training.
862.21 Disenrollment from the advanced course.
862.22 Disenrollment from the basic course.

AUTHORITY: §§ 862.1 to 862.22 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 8540, 9381–9387, 70A Stat. 527, 568–571; 10 U.S.C. 9381–9387.

SOURCE: AFR 45–48, April 29, 1963.

§ 862.1 Purpose.

Sections 862.1 to 862.22 prescribe the policies and procedures for the organization, administration, and operation of the Air Force Reserve Officers Training Corps (AFROTC) during peacetime, national emergency, or full-scale mobilization.

§ 862.2 Definitions.

In §§ 862.1 to 862.22, the following terms apply:

(a) *Air Force ROTC detachment.* An Air Force organization manned by Regular or Reserve Air Force personnel assigned to Air Force ROTC, with duty station at a civilian educational institution.

(b) *Sub-detachment.* An AFROTC detachment under the administrative control of another (parent) detachment whose physical location is separate from the parent detachment.

(c) *Air Science.* The official designation of the Air Force ROTC program of instruction.

(d) *Department of Air Science.* An integral academic subdivision of an educational institution which includes all Air Force ROTC activities conducted at the institution as stipulated in a contract with the Air Force.

(e) *Basic course.* The first- and second-year program of instruction in Air Science.

(f) *Advanced course.* The third- and fourth-year program of instruction in Air Science.

(g) *Air Force ROTC summer training.* A period of training for the advanced course cadets conducted at an Air Force installation.

(h) *Summer training unit (STU).* The training organization established annually as the camp authorized by Section 9385, Title 10, United States Code, to conduct the training cited in paragraph (g) of this section.

(i) *Professor of Air Science (PAS).* The senior Air Force commissioned officer assigned to command a detachment or a sub-detachment of the Air Force ROTC.

(j) *Institutional phase.* That portion of the entire Air Force ROTC program conducted at a civilian educational institution (as distinguished from the Air Force ROTC summer training phase).

(k) *Academic year.* The period that begins with the opening date of registration for the fall term and ends the day before the opening date of the fall term registration of the following year.

(l) *Cadet.* A student who has been admitted to full membership in the AFROTC and is entitled to all benefits

authorized by law and regulations pertaining thereto.

(m) *Conditional cadet.* A cadet who is tentatively accepted for enrollment in the advanced course pending determination of his eligibility for enrollment, when his lack of eligibility is caused by factors over which the cadet has no control.

(n) *Pursuing student.* A student who is not a member of the AFROTC nor a candidate for appointment as a commissioned officer on the basis of the completion of the AFROTC program, but who is permitted to pursue the institutional phase of the AFROTC course for academic credit only.

(o) *Category.* An enrollment classification of advanced course cadets, used to identify their potential utilization as a commissioned officer, and based on their qualifications, personal preferences, and USAF officer production requirements. (See categories I–P, I–N, II, III, and IV, in § 862.15.)

(p) *AFROTC graduate.* A cadet who has successfully completed the AFROTC program prescribed by law and regulations, including the prescribed AFROTC summer training, and has been awarded a baccalaureate degree.

(q) *Extended active duty (EAD).* A tour of active military service performed by a Reserve officer who occupies an authorized troop space in the active military establishment.

(r) *Active duty for training.* A 6-month tour of active military service for Reserve training under orders that provide for automatic reversion to an inactive duty training status upon completion of the specified period of active military service.

(s) *Friendly foreign nations.* Those nations outside Communist domination or influence, or which are known to have military or political pacts with the United States.

(t) *Officer training program.* Any portion of training received in OCS, OTS, advanced course Army, Navy, or Air Force ROTC, or any of the service academies.

(u) *Completed cadet.* A cadet who has completed the AFROTC program of instruction at least one quarter or semester before he completes his degree requirements, or who has completed the AFROTC program of instruction (including summer training) and has graduated from the institution, but who for reasons beyond his control cannot be commissioned until all commissioning requirements have been met.

§ 862.3 Policy on officer procurement.

The Air Force Reserve Officers Training Corps (AFROTC) is a major officer procurement program of the Air Force. It is conducted jointly with the cooperating educational institutions, as outlined in §§ 862.1 to 862.22. AFROTC or other equivalent peacetime program will be the officer candidate program conducted in colleges and universities during a national emergency or war.

§ 862.4 Mission and objectives of the Air Force ROTC.

The mission of the Air Force ROTC is to produce officers of appropriate quality to satisfy stated Air Force officer requirements. The objectives of the AFROTC are:

(a) To develop a selection base broad enough to insure the Air Force a wide choice of officer material.

(b) To screen, select, and enroll enough candidates of a suitably high quality to meet Air Force requirements.

(c) To provide appropriate precommissioning education and training which will qualify the candidate for active duty as a junior officer and strongly motivate him toward an Air Force career.

(d) To commission as second lieutenants those graduates who meet all requirements.

§ 862.5 Organization of the Air Force ROTC.

The Department of the Air Force determines the plans and policies to implement Chapter 905, Title 10 U.S.C., and other Federal statutes relating to the AFROTC; it also supervises the execution of all laws, plans, and policies affecting the conduct of the AFROTC program by major air commanders.

(a) The Air Force ROTC program exists only at accredited degree-granting institutions; it is planned to coincide with the normal academic program leading to a baccalaureate degree. In the event of full-scale mobilization, the educational institution shall be responsible for the educational program of the officer candidates. Academic program acceleration and baccalaureate degree requirements shall be as follows:

(1) A minimum of 48 weeks of academic instruction per year will be required.

(2) Current credit requirements for baccalaureate degree shall be maintained at the respective institutional minima.

(3) Any off-campus work done by the officer candidates in "cooperative schools" or courses shall be done in laboratories or industries approved by Air University.

(4) All students shall be placed on the same accelerated schedule, if feasible.

(b) The Air Force ROTC is organized as a subordinate unit of the Air University and has a central unit, detachments, and sub-detachments. A detachment is established/disestablished only with the approval of the Secretary of the Air Force, although the Commandant, AFROTC, and the educational institution may establish/disestablish a sub-detachment by mutual agreement. If Headquarters USAF establishes a sub-detachment, it cannot be disestablished without Headquarters USAF approval.

(c) The agreement between the institution and the Air Force stipulates that each cadet who has enrolled in either course must complete that course as a prerequisite to his graduation from the institution. This obligation may be waived only:

(1) Under regulations prescribed by the Secretary of the Air Force.

(2) When the Professor of Air Science, with the concurrence of the institutional authorities, disenrolls a basic or advanced cadet from AFROTC (see § 862.22).

§ 862.6 Selection of educational institutions.

To assure the selection of educational institutions (to receive new units of AFROTC or of any similar on-campus precommissioning program) on a common and equitable basis under peacetime, national emergency, or full-scale mobilization conditions, each institution selected must:

(a) Have applied to receive a unit;

(b) Be fully accredited by the appropriate regional or national authority;

(c) Provide adequate physical facilities; and

(d) Be capable of producing a number of officers adequate to justify the Department of Defense resources invested, considering (among other factors) the number of students enrolled who are prospective officer candidates, and the proportion of each entering academic class who normally receive degrees from the institution.

§ 862.7 Organization of the training program.

This training program includes the institutional phase (the basic and advanced courses) and the summer training phase.

(a) *The institutional phase.* This phase consists of a 2-year basic course and a 2-year advanced course. Completion of the basic course does not guarantee acceptance in the advanced course (but it or the equivalent is a prerequisite). The student must voluntarily apply for the advanced course and compete with all applicants for selection. (Sections 862.8 to 862.17 describe the eligibility requirements for enrollment in each course, and tell what categories of enrollment exist in the advanced course.) Entrance into the advanced course is normally phased so that its completion coincides with the awarding of the baccalaureate degree. The Commandant, AFROTC, may prescribe policies which are an exemption to this.

(b) *Compression, curtailment, or concurrent pursuit of courses.* The basic and advanced courses are expected to cover four full academic years, and the law forbids that the basic course be compressed or curtailed into less than two academic years. However, the Commandant, AFROTC, may permit compression of the entire program through concurrent enrollment in both courses, or through compression of the advanced course when these circumstances exist:

(1) When a cadet is enrolled in an academic program that requires less than 4 years of resident study for the degree.

(2) When a cadet with outstanding leadership qualities is enrolled, who would otherwise be unable to complete the entire AFROTC course before his degree is awarded.

(3) When the academic program of an educational institution having AFROTC or equivalent program is accelerated during full-scale mobilization.

§ 862.8 Legal requirements.

Before a student at an institution with an AFROTC detachment may enroll in AFROTC basic training, the law requires him to be:

(a) A citizen of the United States.

(b) Not less than 14 years of age.

(c) Physically qualified for military service at the time of his enrollment or upon his arrival at military age.

§ 862.9 Who may not enroll in AFROTC.

(a) Commissioned officers (present/former) of any component of the Army, Navy, Air Force, Marine Corps, or Coast Guard.

(b) Officers (present/former) of the U.S. Public Health Service.

(c) Members of any component of the U.S. Armed Forces on extended active duty.

§ 862.10 Character requirements.

Good moral character is a prerequisite for enrolling and continuing in the AFROTC; a candidate becomes ineligible under these circumstances.

(a) *Military or civil offenses.* If a student has been convicted by a court-martial, or by a civil court for any offense other than a minor traffic violation, he will not be certified for Selective Service deferment as a basic student, nor will he be enrolled or continued in the advanced course unless a waiver is granted. The Commander, AU, has waiver authority for all offenses. The Commandant, AFROTC, is authorized to grant or deny waivers of nonrecurrent minor violations that are not prejudicial to the applicant's performance of duty as an Air Force officer and do not indicate unacceptable traits of character. The authority to waive nonrecurrent minor violations may be delegated to the PAS.

(b) *Unsuitability.* If a student is eliminated from a service academy or from any officer training program of the Army, Navy, or Air Force:

(1) For military inaptitude, indifference, major honor violations, or undesirable traits of character, he may not enroll in AFROTC or wear the AFROTC uniform. This includes persons who resign in the face of impending charges, as well as those eliminated by official action. A student who has been eliminated for disciplinary reasons may enroll as a basic cadet, but he cannot be certified for Selective Service deferment and cannot enter the advanced course without a waiver from Headquarters USAF (AFPTR).

(2) For academic deficiency, he may be enrolled in the basic course. He may also be conditionally enrolled in the advanced course but his application must be referred through channels to Headquarters USAF (AFPTR) for review and final decision; if his application is approved, he may be enrolled. (See §§ 862.18 to 862.20 for conditional enrollment procedures.)

§ 862.11 Loyalty requirements.

The PAS will make sure that any U.S. citizen who fails to do the following is not permitted to wear the AFROTC uniform:

(a) *Sign the oath of allegiance.* A student is not enrolled in the basic course unless he signs the following certificate, which becomes part of his record. (He may, because of conscientious scruple, substitute the word "affirm" for "swear," and delete the phrase "so help me God" for the same reason.)

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

(b) *Complete the Armed Forces Security Questionnaire.* If an advanced course applicant fails or refuses, after instruction, to fill out DD Form 98, "Armed Forces Security Questionnaire," in its entirety, the PAS will deny him enrollment in the advanced course. Also, if he makes entries on this form which provide reason to believe that his enrollment is not clearly consistent with the interests of national security, or if he qualifies an entry by a remark other than "none" or "none to my knowledge" in the Remarks section, he will be denied enrollment or appointment until after a full and complete investigation discloses that his enrollment or appointment is not prejudicial to the national interest. (Such an applicant may be conditionally enrolled in the advanced course until his eligibility for enrollment or commissioning is determined; see §§ 862.18 to 862.20 for conditional enrollment procedures.)

(1) The student must file the DD Form 98 sufficiently in advance of the announced enrollment date to permit such an investigation, if one is required.

§ 862.12 Age requirements.

A student may not enroll/reenroll in the advanced course after a lapse in training if he would be too old to complete all requirements for appointment as a Reserve of the Air Force by the time he is 26 years and 6 months old (if he is programmed for flying training) or 28 years old (if he is programmed for other than flying training).

(a) *Waivers permitted.* The Commandant, AFROTC, may extend the age limit for an AFROTC cadet who has served on active duty with any branch of the military service, by not more than the number of months the cadet served on EAD, if this does not permit the cadet to be commissioned after his 30th birthday.

(b) *Waivers not permitted.* Category I cadets are never entitled to the waiver in paragraph (a) of this section.

§ 862.13 Policy on eligibility for the advanced course.

As many qualified students may be enrolled in each category as are necessary to fill, but not exceed, quotas set by Headquarters USAF (and sub-allotted by the Commandant, AFROTC) for the graduating class in which they will be appointed.

(a) Priority consideration should be given to Civil Air Patrol members who hold a CAP certificate of proficiency.

(b) Waivers to permit the enrollment of a cadet in an advanced course are discouraged.

(c) A graduate student may be enrolled in the advanced course, if he:

(1) Is selected within the prescribed production requirements.

(2) Is selected in competition with undergraduate students.

(3) Has completed the basic course or has received credit for it, as prescribed in § 862.19.

(d) A conscientious objector may not be enrolled in the advanced course.

§ 862.14 Prerequisites for enrollment in the advanced course.

Each cadet enrollment in the advanced course:

(a) Must have completed the basic course or must have received credit for it, as prescribed in § 862.19.

(b) Must meet the physical requirements required by the Air Force.

(c) Must successfully complete any general survey or screening test prescribed for entrance into his category.

(d) Must sign a deferment agreement as required by §§ 862.76 to 862.84.

NOTE: The PAS must make certain that the cadet understands that the deferment agreement and the category agreement (1056 series of Air Force forms) do not conflict; instead, the former quotes a statute, and the latter a contractual agreement.

§ 862.15 Categories of training for advanced ROTC.

Students accepted in the advanced course may be enrolled in four categories as follows:

(a) *Category I.* These are cadets who qualify for flying training. There are two sub-categories: I–P for pilot candidates, and I–N for navigator candidates. AF Form 1056, "Category I Agreement," is used to enroll these cadets.

(1) To enroll in Category I, the cadet must sign the Career Reserve Statement.

(2) The cadet may not enroll in Category I–P if he has been eliminated from an aviation cadet pilot training class of the Air Force or Navy for flying deficiency. If the same authority that eliminated him recommends it, however, the PAS may enroll him as a cadet in Category I–N or other categories.

(3) The cadet may not enroll in Category I–N if he has been eliminated from an aviation cadet navigator training class of the Air Force or Navy for flying deficiency. If the same authority that eliminated him recommends it, however, the PAS may enroll him as a cadet in Category I–P or in other categories.

(4) The Commandant, AFROTC, will not commission such cadets (in subparagraphs (2) and (3) of this paragraph) until the date of graduation of the class from which they were eliminated.

(5) A cadet in Category I who fails or refuses to apply for flying training within the established time limit is discharged from the AFROTC program.

(b) *Category II.* These are cadets enrolled in a college program leading to a baccalaureate degree, with a major in a prescribed engineering or scientific field, who meet the physical standards for an Air Force commission.

(1) AF Form 1056a, "Category II, III Agreement," is used to enroll cadets in this category.

(2) These cadets may sign the Career Reserve Statement either at the time they enroll or during the course, at their option.

(c) *Category III.* These are cadets enrolled in a college program leading to a baccalaureate degree, generally with a

major other than engineering or science, who meet the physical standards for an Air Force commission.

(1) AF Form 1056a, "Category II, III Agreement," is used to enroll cadets in this category.

(2) These cadets have the same option as Category II cadets as to whether they will sign their Career Reserve Statements.

(d) *Category IV.* These are cadets who have fulfilled their active duty Selective Service requirements, except those who have served on active duty for training as provided in the Reserve Forces Act of 1955 (Public Law 305). AF Form 1056b, "Category IV Agreement," is used to enroll cadets in this category.

§ 862.16 Appointment as Reserve of the Air Force.

A member of the advanced course AFROTC accrues no vested right to a commission in any Air Force component by virtue of such membership. If he is otherwise qualified, such a graduate is tendered an appointment as second lieutenant, Reserve of the Air Force:

(a) Upon successful completion of prescribed military training and upon the award of a baccalaureate degree; or

(b) When an authorized institutional official certifies that he has qualified for a degree to be awarded officially at a later date.

§ 862.17 Extended active duty for AFROTC graduates.

Under the terms of his category agreement, a cadet enrolled in one of the first three categories and commissioned from it upon graduation from the AFROTC, must serve an initial active duty period within one year, unless a delay is approved. A cadet enrolled in Category IV is not ordered to extended active duty unless he volunteers and is selected for active duty.

§ 862.18 Conditional enrollment in advanced course.

The Commandant, AFROTC, prescribes specific policy for conditional enrollment of cadets, which enables the PAS to accept tentatively a cadet in the advanced course until his eligibility is determined or the enrollment quota is received.

(a) *Statement required from the cadet.* Before his conditional enrollment, each cadet must sign the following statement:

I understand and agree that no rights or benefits will be made available to me, or in my behalf, unless and until it is determined by proper authority that I am fully qualified and selected for enrollment in the advanced course of the Air Force ROTC; that, upon such determination being made by proper authority, I will be entitled to receive all rights and benefits I would have earned and accrued but for the conditional nature of my enrollment from the date upon which I began work of the advanced course under the terms of this agreement. I further understand and agree that, if I am found to be not fully qualified and selected for such enrollment, I will be considered as not having been an advanced course cadet and will not be entitled to any rights or benefits under the terms of this agreement.

(b) *Deferment.* Cadets accepted for conditional enrollment are authorized deferment as outlined in §§ 862.76 to 862.84.

§ 862.19 Enrollment of pursuing students.

If a student cannot be enrolled or conditionally enrolled in the AFROTC program, the institutional authorities and the PAS may authorize him to pursue the basic or advanced course for academic credit only.

(a) *Commutation.* A pursuing student is not entitled to commutation of subsistence or Government uniforms or uniform allowances, but he may purchase the required AFROTC uniform at his own expense to wear during the course.

(b) *Equipment.* A pursuing student may use available arms and equipment issued for instructional purposes, but such equipment will not be procured solely for his benefit.

(c) *Statement required.* A pursuing student must sign the following statement:

I, _____(name)_____, do hereby agree and understand that as a pursuing student, I am not a member of the Air Force ROTC; that, notwithstanding the fact that I am permitted to pursue the Air Force ROTC course for academic credit, I am not qualified for, nor will the Air Force tender me, a commission as a Reserve of the Air Force, based upon my successful completion of the institutional phase of the advanced course, nor will I be permitted to attend the summer training.

(d) *Who may be a pursuing student.* Any student (including a citizen of a friendly foreign nation) who cannot be enrolled or conditionally enrolled in the AFROTC program, unless otherwise not eligible.

§ 862.20 Credit for previous military training.

(a) *Credit for the basic AFROTC course.* An AFROTC cadet who transfers to another AFROTC detachment will receive credit for that part of the course he successfully completed at the losing institution. An Army or Navy ROTC cadet who desires enrollment in the AFROTC program may receive credit for that portion of the senior division Army or Navy ROTC basic course which he successfully completed at the losing institution. In addition, the Commandant, AFROTC, may waive the first year of the AFROTC basic course for successful completion of three years of junior division Army ROTC; this authority may be delegated to the PAS. The PAS may also waive the basic course for any cadet that has successfully completed Military Schools Division courses MST–1, MST–2, MST–3, and MST–4 of Army ROTC (high school level) at a military school or academy. Although the full basic course may be waived, the PAS should consider requiring the cadet to complete at least one semester or one-quarter of the basic course in order to better evaluate the cadet for entrance into the advanced course.

(b) *Credit for active service.* A cadet may request a waiver of the basic AFROTC course, or a portion of it, required to enroll in the advanced course, based on his previous honorable active service (includes 6 months active duty for training) in the Air Force, Army, Navy, Marine Corps, or Coast Guard. The PAS may waive as much of the basic course as he considers equivalent to the active service training. Note: To provide a broader basis for evaluating and training, the PAS should encourage each veteran who enters an institution at the freshman or sophomore level, who desires a commission through AFROTC, to take the remaining portion of the basic program in phase with his nonveteran contemporaries.

(c) *Credit for academy or senior division ROTC training.* If the candidate is eligible to enroll and is accepted, the PAS may waive on a year-for-year basis as much of the AFROTC program as he considers equivalent to previous training at the U.S. Air Force Academy, U.S. Military Academy, U.S. Naval Academy, U.S. Coast Guard Academy, or in the senior division of the Army ROTC or Naval ROTC. Requirements for the successful completion of the summer training phase are never waived. (Section 862.15(a)(4) applies to these cadets also.)

(d) *Granting advanced standing.* Advanced standing is not granted for the following:

(1) Training received before the student's 14th birthday.

(2) Training received as a member of the Civil Air Patrol.

(3) Training received as a member of a Reserve component of any of the Armed Forces of the United States, when not in the active military service.

(4) Training received at an institution where no commissioned officer of the active military forces is detailed by orders of the appropriate department as Professor of Military Science, Professor of Naval Science, or Professor of Air Science.

§ 862.21 Disenrollment from the advanced course.

(a) *Reasons for disenrollment.* With the concurrence of the head of the institution (or his designated representative) the PAS will disenroll a cadet from the advanced course for any of the following reasons:

(1) Inability to continue regular enrollment in the institution.

(2) Failure to remain medically qualified for commission.

(3) Failure to maintain acceptable retention standards under prescribed competitive criteria.

(4) Individual request for release for justifiable reasons.

(5) Ineptitude, indifference to training, incompatibility, evading the terms of the advanced course agreement, disciplinary reasons, or reasons involving undesirable traits of character.

(b) *Investigations.* When a cadet is considered for disenrollment for any of the reasons in paragraph (a)(3) through (5) of this section, the PAS will appoint an officer to investigate the case, interview the cadet, and return a written report.

(c) *Records.* If a cadet is disenrolled from the advanced course, a DD Form

785, "Record of Disenrollment from Officer Candidate-Type Training," is completed showing any specific recommendations for his further officer training. All of the above disenrollments will be "For the convenience of the Government" and no refund is required for commutation of subsistence paid to the cadet.

(d) *Reenrollment.* The Commandant, AFROTC, prescribes policies and procedures for reenrolling cadets that have been disenrolled for the reasons in paragraph (a) (1) through (4) of this section. No cadet who wilfully promotes his own disenrollment for any of the reasons in paragraph (a) (5) of this section, or whose conduct has brought dishonor to the Corps or himself, is eligible to reenroll in any Air Force procurement program or be appointed in any AF component.

§ 862.22 Disenrollment from the basic course.

With the concurrence of the institutional authorities the PAS may disenroll a cadet from the basic AFROTC course. Such disenrollment releases the institution from the agreement described in § 862.5(c), to require the cadet concerned to complete the basic course as a prerequisite for graduation.

By order of the Secretary of the Air Force.

WILLIAM L. KOCH,
Lt. Colonel, United States Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 63-6150; Filed, June 13, 1963; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Chicago River, Ill.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.663 is hereby amended with respect to paragraph (a) (2) and (3) to govern the operation of the Northwest Expressway Feeder Bridge across North Branch of Chicago River, Illinois, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.663 The Chicago River, the Ogden Slip, the North Branch of the Chicago River, the North Branch Canal, the South Branch, the West Fork of the South Branch, the South Fork of the South Branch, and the West Arm of South Fork of South Branch of the Chicago River, Illinois, bridges.

(a) (1) * * *

(2) Across Ogden Slip at Outer Drive, across the main river and across the South Branch of the Chicago River from its junction with the main river south to and including West Roosevelt Road, and across the North Branch of the Chicago River at West Kinzie Street and at the Northwest Expressway Feeder Bridge, between the hours of 7:30 a.m. and 10:00 a.m. and, on any day excepting Saturday, between the hours of 4:00 p.m. and 6:30 p.m. and on Saturdays between the hours of 12:30 p.m. and 2:00 p.m. and between 5:00 p.m. and 6:00 p.m.: *Provided, however,* That the Outer Link bridge across the main river shall be opened to permit the passage of passenger boats operating on a fixed schedule between 9:45 a.m. and 10:00 a.m.

(3) Across the North Branch of the Chicago River at Grand Avenue and at all bridges north of the Northwest Expressway Feeder Bridge to and including North Halsted Street, between the hours of 7:00 a.m. and 8:00 a.m. and 5:00 p.m. and 6:00 p.m.

* * * * *

[Regs., May 27, 1963, 1507-32 (Chicago River, Ill.)—ENGCW-ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
Major General, U.S. Army, The Adjutant General.

[F.R. Doc. 63-6151; Filed, June 13, 1963; 8:48 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Planning

DMO XII-1—CREATING AN INTERAGENCY HEALTH ADVISORY BOARD

Revocation

Defense Mobilization Order XII-1, Creating an Interagency Health Advisory Board (within the Office of Defense Mobilization), 23 F.R. 1147, is hereby revoked.

Dated: June 5, 1963.

EDWARD A. MCDERMOTT,
Director, Office of Emergency Planning.

[F.R. Doc. 63-6275; Filed, June 13, 1963; 8:51 a.m.]

Title 41—PUBLIC CONTRACTS

SUBTITLE A—FEDERAL PROCUREMENT REGULATIONS SYSTEM

Chapter 11—Coast Guard, Department of the Treasury

[CGFR 63-21]

PART 11-1—GENERAL

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by Treasury Department Order No. 167-17 (20 F.R. 4976) and Treasury Department Order No. 167-50 (28 F.R. 530), the following §§ 11-1.000 through 11-1.108-2, Title 41, Subtitle A, Chapter 11, Code of Federal Regulations, implementing and supplementing the Federal Procurement Regulations, are hereby established under the authority of 14 U.S.C. 633 and Chapter 137, of Title 10 of the United States Code and pursuant to the Federal Property and Administrative Services Act of 1949.

Sec.
11-1.000 Scope of part.

SUBPART 11-1.1—INTRODUCTION

11-1.100 Scope of subpart.
11-1.101 Purpose.
11-1.102 Authority.
11-1.103 Applicability.
11-1.104 Exclusions.
11-1.105 Issuance.
11-1.105-1 Code arrangement.
11-1.105-2 Publication.
11-1.105-3 Copies.
11-1.106 Arrangement.
11-1.106-1 General plan.
11-1.106-2 Numbering.
11-1.106-3 Citation.
11-1.107 Coast Guard implementation and supplementation of FPR.
11-1.107-1 Description.
11-1.108 Deviations.
11-1.108-1 Description.
11-1.108-2 Procedure.

AUTHORITY: §§ 11-1.000 through 11-1.108-2 issued under sec. 633, 14 U.S.C.

§ 11-1.000 Scope of part.

This part describes the method and contains procedures by which the Coast Guard implements and supplements the Federal Procurement Regulations (FPR).

Subpart 11-1.1—Introduction

§ 11-1.100 Scope of subpart.

This subpart establishes Chapter 11, Coast Guard Procurement Regulations (CGPR), implementing and supplementing the Federal Procurement Regulations, and states its relationship to the Federal Procurement Regulations and to other laws and regulations governing Coast Guard procurement. Certain portions of CGPR may contain cross-references to the Armed Services Procurement Regulation (ASPR) for purposes of guidance or in order to incorporate by reference material in the ASPR into CGPR.

§ 11-1.101 Purpose.

This subpart establishes the Federal Procurement Regulations, as implemented and supplemented by Chapter 11 (Coast Guard Procurement Regulations), as the authorized regulations governing the procurement of supplies and services (including construction) by the Coast Guard from appropriated funds, effective 1 July 1963.

§ 11-1.102 Authority.

The Coast Guard Procurement Regulations (CGPR) are prescribed pursuant to the authority of 14 U.S.C. 633, Chapter 137 of Title 10 of the United States Code and the Federal Property and Administrative Services Act of 1949.

§ 11-1.103 Applicability.

These regulations apply to Coast Guard procurement made within and outside the United States unless otherwise specified. Pending publication of implementing and supplementing instructions in this Chapter 11, and cancellation of existing Coast Guard pro-

curement regulations, the procedures and regulations previously established, when not in conflict with FPR, will be used.

§ 11-1.104 Exclusions.

(a) Certain Coast Guard procurement policies and procedures which come within the scope of this Chapter 11 nevertheless may be excluded therefrom when there is justification therefor. These exclusions may include the following categories:

(1) Subject matter which bears a security classification.

(2) Policies or procedures which are expected to be effective for a period of less than six months.

(3) Policies or procedures which are effective on an experimental basis for a reasonable period.

(4) Policies and procedures pertaining to other functions of the Coast Guard as well as procurement functions and there is need to make the issuance available simultaneously to all Coast Guard employees concerned.

(5) Where speed of issuance is essential, numerous changes are required in Chapter 11, and all necessary changes cannot be made promptly.

(b) Procurement policies and procedures issued in other than the FPR System format under paragraphs (a) (4) and (5), of this section, will be codified into Chapter 11 at the earliest practicable date, but in any event not later than six months from date of issuance.

§ 11-1.105 Issuance.

§ 11-1.105-1 Code arrangement.

Coast Guard Procurement Regulations which implement, supplement or deviate from the Federal Procurement Regulations, Chapter 1 of Title 41 of the Code of Federal Regulations, will be published as Chapter 11 of Title 41, Code of Federal Regulations.

§ 11-1.105-2 Publication.

Chapter 11 of Title 41, Code of Federal Regulations will be published in the daily issues of the FEDERAL REGISTER, in cumulated form in the Code of Federal Regulations, and in separate looseleaf form.

§ 11-1.105-3 Copies.

Copies of the Coast Guard Procurement Regulations in the Federal Register and the Code of Federal Regulations form may be purchased by Federal agencies and the public, at nominal cost from the Superintendent of Documents, Government Printing Office, Washington 25, D.C. Looseleaf form copies of Chapter 11 will be distributed to Coast Guard activities as authorized by Coast Guard Headquarters.

§ 11-1.106 Arrangement.

§ 11-1.106-1 General plan.

The Coast Guard Procurement Regulations employ the same numbering system and nomenclature in the Federal Procurement Regulations and conform with Federal Register standards approved for the FPR, except, that material published in looseleaf form for use only by Coast Guard activities which is not published in Title 41, Code of Federal Regulations will be indicated by the letters "CG" preceding and following the material.

§ 11-1.106-2 Numbering.

(a) Chapter 11 has been allocated to the Coast Guard for implementing and supplementing Chapter 1 of Title 41 CFR, the Federal Procurement Regulations.

(b) Where the CGPR implements a part, subpart, section, or subsection of the FPR, the implementing part, subpart, section, or subsection of CGPR will be numbered (and captioned) to correspond to the part, subpart, section, or subsection of Chapter 1, Title 41 CFR, the FPR.

(c) Where the CGPR supplements the FPR, the numbers 50 and up will be assigned to the parts, subparts, or sections involved.

(d) Where the subject matter contained in a part, subpart, section, or subsection of FPR requires no implementation, the CGPR will contain no corresponding part, subpart, section, or subsection number and the subject matter as published in the FPR governs.

§ 11-1.106-3 Citation.

Coast Guard Procurement Regulations will be cited in accordance with Federal Register standards approved for the FPR. Thus this section, when referred to in divisions of the Coast Guard Procurement Regulations, should be cited as "11-1.106-3 of this chapter". When this section is referred to formally in official documents, such as legal briefs, it should be cited as "41 CFR 11-1.106-3". Any section of the Coast Guard Procurement Regulations may be informally identified, for purposes of brevity, as CGPR followed by the section number, i.e., "CGPR 11-1.106-3".

§ 11-1.107 Coast Guard implementation and supplementation of FPR.

§ 11-1.107-1 Description.

The Coast Guard Procurement Regulations "implement" and "supplement" the FPR. The meaning of these terms includes the following:

(a) Implementation means a part, subpart, section, etc., which treats the policies and procedures of a similarly numbered portion of the FPR in greater detail or indicates the manner of compliance, including any deviations. However, material in Chapter 11 which differs from material in Chapter 1 (FPR) shall be regarded as a deviation only if explicitly referenced to be a deviation.

(b) Supplementation means CGPR coverage of matters which have no counterpart in the FPR.

§ 11-1.108 Deviations.

§ 11-1.108-1 Description—See FPR 1-1.009-1.

§ 11-1.108-2 Procedure.

In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR and CGPR shall be kept to a minimum and controlled as follows:

(a) In individual cases, deviations from the FPR and CGPR may be authorized by the Commandant (FS), district commanders and commanding officers of Headquarters units (having contracting authority), unless otherwise provided. This authority may not be redelegated.

(1) A supporting statement for each individual deviation, which indicates briefly the nature of the deviation and the reasons for such special action shall be included in the contract file.

(2) A copy of the supporting statement for each individual deviation shall be forwarded to the Commandant (FS).

(b) In classes of cases, requests for deviations from the FPR and the CGPR shall be forwarded in triplicate to the Commandant (F), and shall be accompanied by an appropriate supporting statement. Request will be considered on an expedited basis, and appropriate coordination with Headquarters staff and operating divisions will be obtained. Requests involving the FPR will be considered jointly by the Coast Guard and the General Services Administration, unless, in the judgment of the Commandant (F), after due consideration of the objective of uniformity and program responsibilities of the Coast Guard, circumstances preclude such joint effort. In such cases, the Commandant (F) will approve such class deviations as he determines necessary and will appropriately notify the General Services Administration.

[SEAL] D. McG. MORRISON,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

MAY 16, 1963.

[F.R. Doc. 63-6280; Filed, June 13, 1963; 8:52 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2110]

PUBLIC LANDS; APPLICATIONS, PETITIONS, AND APPEALS

Miscellaneous Amendments

The regulations in 43 CFR Part 296 relating to land classifications have been revised. A number of technical amendments in the several parts of 43 CFR listed above are necessary in order to make those parts consistent with the revised Part 296. Those amendments are set forth below.

Although the Department of the Interior customarily observes the rule making requirements voluntarily, that procedure is not followed in this case since these are technical changes related to the substantive changes published as proposed rule making on April 5, 1963 (28 F.R. 3352).

These amendments will be effective upon publication in the FEDERAL REGISTER.

PART 75—SALES AND LEASES

1. Paragraph (a) of § 75.22 is amended to read as follows:

§ 75.22 Lands subject to sale; classification and use.

(a) Any public lands in Alaska not within national parks or monuments, national forests, Indian lands, or military reservations, may be sold under the act, provided such lands shall first have been classified by the authorized officer of the Bureau of Land Management as suitable for disposal for industrial, commercial, or housing use. The authorized officer may classify lands under the act either on his own motion or upon application.

2. Paragraph (a) of § 75.23 is hereby revised to read as follows:

§ 75.23 Application;[1] service fee; limitation on holdings.

(a) An application to purchase public lands under the Act of August 30, 1949, which have not been classified for disposition under the act, may be filed with the appropriate land office by any qualified individual, association of individuals, or corporations, including municipal and public corporations. Each application must be accompanied by a petition for classification on Form 4–1677.

PART 130—GENERAL REGULATIONS INVOLVING CERTIFICATES AND SCRIP

3. The heading of § 130.1 and paragraph (a) of that section are amended to read as follows:

§ 130.1 Application; fees.[1]

(a) Applications to locate scrip, warrants, certificates, soldiers' additional rights or to make lieu selections of public lands outside of Alaska must be made on Form 4–1674, properly executed, and must be accompanied by a petition for classification on Form 4–1677. However, if the lands described in the application have been already classified and opened for acquisition with scrip, no petition is required. Applications to locate soldiers' additional homestead rights in Alaska must be made on Form 4–008a, properly executed.

PART 132—SOLDIERS' ADDITIONAL HOMESTEAD RIGHTS

4. Section 132.7 is amended to read as follows:

§ 132.7 Forms prescribed for applications.

For public lands in Alaska, Form 4–008a must be used. For other public lands, Form 4–1674 must be used.

5. Paragraph (a) of § 132.8 is amended to read as follows:

§ 132.8 Action on applications.

(a) Where an application to locate soldiers' additional rights under sections 2306 and 2307, Revised Statutes (43 U.S.C. 274, 278), is held for rejection, and the applicant accepts the holding and files a substitute soldiers' additional right, such substitute right should be accompanied by the proper formal application duly executed. The substitution amounts to a waiver of all rights under the rejected application. Publication and posting must be made as required by Part 130 of this chapter, except in Alaska, where publication and posting must be made in accordance with section 10, Act of May 14, 1893 (30 Stat. 413; 48 U.S.C. 359), and § 61.13. The above covers cases in which the entire right has been held to be invalid, and has no bearing whatever on the so-called "combination" cases. Where a part of a combination of rights is held to be invalid and new rights substituted therefor, a new application should not be filed.

PART 146—EXCHANGES OF PRIVATELY OWNED LANDS UNDER TAYLOR GRAZING ACT

6. Paragraph (a) of § 146.2 is hereby revised to read as follows:

§ 146.2 Application.[1]

(a) Persons, firms, or corporations desiring to exchange lands pursuant to § 146.1 must file an application, in duplicate, on Form 4–728, together with a petition on Form 4–1677, properly executed. The documents must be filed in the land office having jurisdiction over the selected land. If the selected lands are located in a State where there is no land office, the documents must be filed with the Bureau of Land Management, Washington 25, D.C., except that if the selected lands are in North Dakota or South Dakota, they must be filed in the land office at Billings, Montana; if the selected lands are in Nebraska or Kansas, they must be filed in the land office at Cheyenne, Wyoming; and if the selected lands are in Oklahoma, they must be filed in the land office at Santa Fe, New Mexico.

§ 146.8 [Amendment]

7. Sections 146.8 (b) and (c) are revoked in their entirety and paragraph (d) is redesignated as paragraph (b).

PART 148—EXCHANGES FOR THE CONSOLIDATION OR EXTENSION OF NATIONAL FORESTS

8. Section 148.2 is hereby revised to read as follows:

§ 148.2 Applications for exchange.

All applications for exchange for the consolidation or extension of national forests must be filed with the appropriate officer of the Forest Service, U.S. Department of Agriculture. When the application involves the selection of public lands outside of national forests and under the administrative jurisdiction of the Bureau of Land Management, the applicant must also file a copy of his application, together with a petition on Form 4–1677, properly executed, in the Bureau of Land Management land office having jurisdiction over the selected lands. If the selected lands are located in a State where there is no land office, the documents must be filed with the Bureau of Land Management, Washington 25, D.C., except that if the selected lands are in North Dakota or South Dakota, they must be filed in the land office at Billings, Montana; if the selected lands are in Nebraska or Kansas, they must be filed in the land office at Cheyenne, Wyoming; and if the selected lands are in Oklahoma, they must be filed in the land office at Santa Fe, New Mexico.

PART 149—EXCHANGES FOR THE CONSOLIDATION OR EXTENSIONS OF INDIAN RESERVATIONS OR INDIAN HOLDINGS

9. Paragraph (a) of § 149.1 is hereby revised to read as follows:

§ 149.1 Applications.

(a) Applicants for exchange must file, in triplicate, an application on Form 4–1493, together with a petition on Form 4–1677, properly executed. The documents must be filed in the Bureau of Land Management land office having jurisdiction over the selected lands. If the selected lands are located in a State where there is no land office, the documents must be filed with the Bureau of Land Management, Washington 25, D.C., except that if the selected lands are in North Dakota or South Dakota, they must be filed in the land office at Billings, Montana; if the selected lands are in Nebraska or Kansas, they must be filed in the land office at Cheyenne, Wyoming; and if the selected lands are in Oklahoma, they must be filed in the land office at Santa Fe, New Mexico.

§ 149.8 [Revocation]

10. Section 149.8 is revoked in its entirety.

PART 166—ORIGINAL, ADDITIONAL, SECOND, AND ADJOINING FARM HOMESTEADS, AUTHORIZED BY THE GENERAL PROVISIONS OF THE HOMESTEAD LAWS

11. Section 166.17 is amended to read as follows:

§ 166.17 Petitions and applications.

(a) A person who desires to enter public lands outside of Alaska must file an application on Form 4–007, together with a petition on Form 4–1677, properly executed. However, if the lands described in the application have been already classified and opened to homestead entry under the provisions of this part, no petition (Form 4–1677) is required. The documents must be filed in the proper land office in the State, or if the lands are in a State in which there is no land office, must be filed with the Bureau of Land Management in Washington, D.C., except that petitions for lands in North

[1] Title 18, U.S.C. sec. 1001, makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Dakota or South Dakota must be filed in the land office at Billings, Montana; petitions for lands in Nebraska or Kansas must be filed in the land office at Cheyenne, Wyoming; for lands in Oklahoma in the land office at Sante Fe, New Mexico.

(b) Applications for public lands in Alaska subject to entry under the regulations of this part must be filed with the proper land office on Form 4–007, properly executed.

12. Section 166.68 is amended to read as follows:

§ 166.68 Petitions and applications.

A person who desires to make an additional homestead entry under Section 6 of the Act of March 2, 1889, must comply with the provisions of § 166.17. In addition, he must file with the prescribed form or forms a reference to the Act of March 2, 1889, and a description, by number, section, township, and range of his original entry, together with the date of the issuance of the final receipt thereon. He is not required to show that he is still the owner or occupant of the land originally entered.

13. Section 166.71 is amended to read as follows:

§ 166.71 Petitions and applications.

A person who desires to make an additional homestead entry under Section 2 of the Act of April 28, 1904, must comply with the provisions of § 166.17. In addition, he must file with the prescribed form or forms a reference to the Act of April 28, 1904, and a description by number, section, township, and range of his original entry. He must also show that he owns and resides upon the land embraced in his original entry.

PART 167—ENLARGED HOMESTEADS

14. Section 167.3 is amended to read as follows:

§ 167.3 Petitions and applications.[2]

A person who desires to enter public lands under the enlarged homestead laws must file an application on Form 4–003, together with a petition on Form 4–1677, properly executed. However, if the lands have been already classified and opened to entry under the enlarged homestead laws, only an application (Form 4–003) should be filed. The documents must be filed in the proper land office in the State, except that petitions for lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana, and petitions for lands in Kansas must be filed in the land office at Cheyenne, Wyoming.

§ 167.8 [Amendment]

15. Section 167.8 is revoked in its entirety.

16. Section 167.12 is amended to read as follows:

[1] See footnote on page 6076.

[2] Any person qualified to make an original homestead entry for 160 acres is qualified to make entry under the Enlarged Homestead Acts for 320 acres.

§ 167.12 Who may make additional entry; additional information required.

The act of March 3, 1915, confers the right of entry only upon one who "still owns and occupies the land" first entered; it is not required that the claimant be residing on said tract, and the occupancy thereof may be by agent or through a tenant. It should be observed that no change has been made in the requirement of the law that the tracts be contiguous; and this would not be fulfilled by the fact that they corner on each other. Where a person desires to make an entry under the Act of March 3, 1915, he must file in addition to the form or forms required by § 167.3, a statement showing continued ownership and occupancy of the land first entered, and a statement setting forth the character of the land in both tracts. These statements together with the required forms will be considered as a petition for designation under the enlarged homestead laws.

PART 176—INDIAN ALLOTMENTS AND POSSESSIONS

17. Section 176.4 is amended to read as follows:

§ 176.4 Petitions and applications.

Any person desiring to receive an Indian allotment (other than those seeking allotments in national forests, for which see § 176.15 of this part) must file with the manager of the land office for the district in which the land is situated, an application on Form 4–012, together with a petition on Form 4–1677, properly executed, together with a certificate from the authorized officer of the Bureau of Indian Affairs that the person is Indian and entitled to allotment, as specified in § 176.2. However, if the lands described in the application have been already classified and opened for disposition under the provisions of this part, no petition (Form 4–1677) is required. The documents must be filed in the proper land office in the State, or if the lands are in a State in which there is no land office, must be filed with the Bureau of Land Management in Washington, D.C., except that petitions for lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana; petitions for lands in Nebraska or Kansas must be filed in the land office at Cheyenne, Wyoming; for lands in Oklahoma in the land office at Santa Fe, New Mexico. The petition and the statement attached to the application for certificate must be signed by the applicant.[1]

18. Section 176.5 is amended to read as follows:

§ 176.5 Blank forms.

Blank forms for petitions and applications may be had from any office of the Bureau of Indian Affairs, or from land offices of the Bureau of Land Management.

19. Paragraph (a) of § 176.7 is amended to read as follows:

§ 176.7 Certificate of allotment.

(a) When the manager approves an application for allotment, he will issue to the applicant a "certificate of allotment", on a prescribed form, showing the name in full of the applicant, post office address, name of the tribe in which membership is claimed, serial number of the certificate issued by the Commissioner of Indian Affairs, and a description of the land allotted.

20. Paragraph (c) of § 176.10 is amended to read as follows:

§ 176.10 Segregative effect of application.

* * * * *

(c) Where an allotment application is approved by the authorized officer, it operates as a segregation of the land, and subsequent applications for the same land will be rejected.

PART 221—APPEALS AND CONTESTS

21. Section 221.1 is revised to read as follows:

§ 221.1 Who may appeal.

Except as otherwise provided in Part 296 of this chapter, any party to a case who is adversely affected by a decision of an officer of the Bureau of Land Management other than the Director or person signing for the Director, shall have a right of appeal to the Director.

PART 232—DESERT-LAND ENTRIES

22. Section 232.9 is amended to read as follows:

§ 232.9 Petitions and applications.[1]

(a) A person who desires to enter public lands under the desert land laws must file an application on Form 4–274, together with a petition on Form 4–1677, properly executed. However, if the lands described in the application have been already classified and opened for disposition under the desert land laws, no petition (Form 4–1677) is required. The documents must be filed in the proper land office in the State, except that petitions for lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana.

(b) All applications on Form 4–274 must be accompanied by an application service fee of $15 which is not returnable, and the payment of 25 cents per acre for the lands therein described as required by law.

§ 232.10 [Revocation]

23. Section 232.10 is revoked in its entirety.

§ 232.14 [Revocation]

24. Section 232.14 is revoked in its entirety.

PART 234—RECLAMATION OF ARID LANDS IN NEVADA

25. Section 234.4 is amended to read as follows:

§ 234.4 Petitions and applications.[1]

(a) A person who desires to apply for a permit to explore for water under the terms of this act must file an application on Form 4–1680, together with a petition on Form 4–1677, properly executed. However, if the lands described in the application have been already classified

and opened for disposition under the Pittman Act, no petition (Form 4–1677) is required. The documents must be filed in the land office at Reno, Nevada.

(b) All persons filing applications must pay a nonrefundable application service fee of $75.

PART 250—PUBLIC SALES

26. Paragraph (a) of § 250.3 is hereby revised to read as follows:

§ 250.3 Application.

(a) A person who desires to have a tract ordered into market must file an application in duplicate on Form 4–008e, together with a petition on Form 4–1677, properly executed. These documents must be filed in the proper land office in the State, or if the lands are in a State in which there is no land office, they must be filed with the Bureau of Land Management, Washington 25, D.C., except that documents relating to lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana; documents relating to lands in Nebraska or Kansas must be filed in the land office at Cheyenne, Wyoming; documents relating to lands in Oklahoma in the land office at Santa Fe, New Mexico.

§ 250.13 [Revocation]

27. Section 250.13 is revoked in its entirety.

PART 254—RECREATION AND PUBLIC PURPOSES

28. Paragraph (a) of § 254.7 is hereby revised to read as follows:

§ 254.7 Applications.[1]

(a) Applicants under the act must submit an application on Form 4–1267 accompanied by a petition on Form 4–1677, properly executed. If the lands have been already classified for disposition under the act, no petition (Form 4–1677) is required. Each application must be accompanied by (1) three copies of a statement describing the proposed use of the lands, showing that the application involves an established or definitely proposed project, and giving as much detail concerning the plan of development and improvement of the project as is necessary to describe the project and its purpose adequately and the proposed disposition of any revenues to be realized from it and (2) a filing fee of $10. The documents must be filed in the proper land office in the State, or if the lands are in a State in which there is no land office, they must be filed with the Bureau of Land Management, Washington 25, D.C., except that documents relating to lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana; documents relating to lands in Nebraska or Kansas must be filed in the land office at Cheyenne, Wyoming; documents relating to lands in Oklahoma in the land office at Santa Fe, New Mexico.

§ 254.15 [Revocation]

29. Section 254.15 is revoked in its entirety.

[1] See footnote on page 6076.

PART 257—SALE OR LEASE OF SMALL TRACTS

30. Paragraph (a) of § 257.6 is hereby revised to read as follows:

§ 257.6 Application; general procedure.

(a) Any person who desires to lease or purchase unclassified lands that have been opened to application pursuant to the regulations of this part (see subparagraph (4) of paragraph (e) of this section) must file an application, in duplicate, on Form 4–776, together with a petition on Form 4–1677, properly executed. If the lands have been already classified and opened to application, only an application on Form 4–776 is required. If the lands have been already classified for direct sale at public auction no application (Form 4–776) or petition (Form 4–1677) should be filed (see paragraph (c) of this section). The documents must be filed in the proper land office in the State, or if the lands are in a State in which there is no land office, they must be filed with the Bureau of Land Management, Washington 25, D.C., except that documents relating to lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana; documents relating to lands in Nebraska or Kansas must be filed in the land office at Cheyenne, Wyoming; and documents relating to lands in Oklahoma in the land office at Santa Fe, New Mexico.

§ 257.20 [Revocation]

31. Section 257.20 is revoked in its entirety.

PART 270—STATE GRANTS FOR EDUCATIONAL, INSTITUTIONAL, AND PARK PURPOSES

32. Paragraphs (a) and (c) of § 270.3 are amended to read as follows:

§ 270.3 Applications for selection.

(a) Applications for selection must be made on Form 4–1681, and must be accompanied by a petition on Form 4–1677, properly executed. However, if the lands described in the application have been already classified and opened for selection pursuant to the regulations of this part, no petition (Form 4–1677) is required.

* * * * *

(c) Applications must be accompanied by the following information:

(1) A reference to the act of August 27, 1958 (72 Stat. 928), as amended.

(2) A certificate by the selecting agent showing.

(i) All facts relative to medicinal or hot springs or other waters upon the selected lands.[3]

(ii) That indemnity has not been previously granted for the assigned base lands and that no other selection is pending for such assigned base.

(3) A statement describing the mineral or nonmineral character of each smallest legal subdivision of the base and selected lands or mineral estate.

(4) A certificate by the officer or officers charged with the care and disposal of school lands that no instrument purporting to convey, or in any way incumber, the title to any of the land used as base or bases, has been issued by the State or its agents.

[3] This provision does not apply insofar as the application involves the selection of the mineral estate.

§ 270.6 [Revocation]

33. Section 270.6 is revoked in its entirety.

34. Paragraph (b) of § 270.9 is amended to read as follows:

§ 270.9 Applicable regulations.

* * * * *

(b) Section 270.3(c)(1) is modified to require reference to the appropriate granting act; § 270.3(c)(3) is modified to require a statement testifying to the nonmineral character of each smallest legal subdivision of the selected land; § 270.3(d)(2) is modified to permit as much as 6,400 acres in a single selection; and § 270.3(c)(2)(ii) is modified to require a certificate that the selection and those pending, together with those approved, do not exceed the total amount granted for the stated purpose of the grant.

STEWART L. UDALL,
Secretary of the Interior.

JUNE 7, 1963.

[F.R. Doc. 63–6243; Filed, June 13, 1963; 8:46 a.m.]

[Circular 2110]

PART 296—CLASSIFICATIONS

On page 3352 of the FEDERAL REGISTER of April 5, 1963, there was published a notice and text of a proposed amendment of Part 296 of Title 43, Code of Federal Regulations. The purpose of the revision is (1) to strengthen administrative control of the function of land classification by requiring conformance at all echelons of the Department with approved standards of technical competence; (2) to increase the efficiency and effectiveness of the public business by promoting a better understanding of the authority and responsibility of the Secretary of the Interior under the public land laws listed; (3) to inform the public of limitations on the opportunities to acquire lands under such public land laws; (4) to discourage unethical promotions of applications for public lands; and (5) to reduce time lag between application and final decision on land classification, thus facilitating the opportunity for judicial review.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. The comments received have been carefully considered. Several changes suggested are being adopted.

The proposed revision is hereby adopted with the following changes.

1. In order to make clear that the word "agencies" includes State and local, as well as Federal agencies, in subparagraph (3) of paragraph (b) of § 296.2 substitute the following for the word

"agencies": "Federal agencies, States, counties, municipalities, and other public agencies".

2. In order to eliminate an inconsistency in terms, in subparagraph (3) of paragraph (c) of § 296.2 strike the words "for irrigation."

3. In order to assure coordination with State water programs, add the following sentence to subparagraph (3) of paragraph (c) of § 296.2: "Views of States or their agencies having authority in determining the beneficial use of water shall be considered."

4. In order to insure interested agencies the opportunity to comment on proposed classification actions, add the following sentence to paragraph (c) of § 296.4: "If the record discloses that comments on the classification have been received from officials or agencies referred to in subdivisions of § 296.2(b)(3) or (c)(3), an information copy of the proposed classification decision shall be mailed to such persons or agencies."

This amendment will be effective upon publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

JUNE 7, 1963.

Part 296 is revised in its entirety to read as follows:

PART 296—LAND CLASSIFICATIONS

Sec.
296.1 Statutory authority.
296.2 Criteria for classification of land.
296.3 Officers who may exercise classification authority.
296.4 Procedures for classification.
296.5 Administrative review.
296.6 Preference right of petitioner-applicants.
296.7 Procedures for allowance and entry.

AUTHORITY: §§ 296.1 to 296.7 issued under sec. 2478, Revised Statutes, 43 U.S.C. 1201, as amended; sec. 7, 8(b), Act of June 28, 1934, 48 Stat. 1272; 43 U.S.C. 315 f and g, as amended; sec. 2455, Revised Statutes, 48 Stat. 1274; 43 U.S.C. 1171, as amended; Act of June 1, 1938, 53 Stat. 609, 43 U.S.C. 682 a–e, as amended; Act of June 14, 1926, 44 Stat. 741, 43 U.S.C. 869, 869: 1–4, as amended; Act of August 30, 1949, 68 Stat. 679, 48 U.S.C. 364 a–e.

§ 296.1 Statutory authority.

(a)(1) All vacant public lands, except those in Alaska, have been, with certain exceptions, withdrawn from entry, selection, and location under the nonmineral land laws by Executive Order 6910, of November 26, 1934, and Executive Order 6964 of February 5, 1935, and amendments thereto, and by the establishment of grazing districts under section 1 of the Act of June 28, 1934 (48 Stat. 1292; 43 U.S.C. 315a). Section 7 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315f), as amended, authorizes the Secretary of the Interior in his discretion to examine and classify and open to entry, selection, or location under applicable law any lands withdrawn or reserved by Executive Order 6910 of November 26, 1934, or Executive Order 6964 of February 5, 1935, and amendments thereto, or within a grazing district established under that act; which he finds are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under said act, or proper for acquisition in satisfaction of any outstanding lieu, exchange, or scrip rights or land grant.

(2) Classification under section 7 is a prerequisite to the approval of all entries, selections, or locations under the following parts of this chapter, except as they apply to Alaska and with certain other exceptions: Original, Additional, Second, and Adjoining Farm Homesteads—Part 166; Enlarged Homesteads—Part 167; Indian Allotments—Part 176; Desert Land Entries—Part 232; Reclamation of Arid Lands in Nevada (Pittman Act)—Part 234; Recreation and Public Purposes Act—Part 254; State Grants for Educational, Institutional, and Park Purposes—Part 270; Scrip Selections—Parts 130, 132, and 133, and Exchanges for the Consolidation or Extension of National Forests, Indian Reservations or Indian Holdings—Parts 148 and 149.

(b) Section 8(b) of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, authorizes the Secretary of the Interior, when public interests will be benefited thereby, to accept on behalf of the United States title to any privately owned lands within or without the boundaries of a grazing district established under that act and in exchange therefor to issue patent for not to exceed an equal value of surveyed grazing district land or of unreserved surveyed public land in the same State or within a distance of not more than fifty miles within the adjoining State nearest the base lands. The regulations governing such exchanges are contained in Part 146 of this chapter.

(c) Section 14 of the Act of June 28, 1934 (48 Stat. 1274; 43 U.S.C. 1171), as amended, authorizes the Secretary of the Interior in his discretion to order into market and sell at public auction isolated or disconnected tracts of public land not exceeding 1,520 acres, and tracts not exceeding 760 acres the greater part of which are mountainous or too rough for cultivation. The regulations governing such sales are contained in Part 250 of this chapter.

(d) The Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682 a–e), as amended, authorizes the Secretary of the Interior in his discretion to classify certain classes of public lands for lease or sale. The regulations governing leases and sales under this act are contained in Part 257 of this chapter.

(e) The Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741; 43 U.S.C. 869, 869 1–4), as amended, requires the Secretary of the Interior, in the exercise of his discretion to make a determination that land is to be used for an established or definitely proposed project, and in the case of Alaska authorizes him to classify certain classes of public lands for lease or sale for recreation or other public purposes. The regulations governing lease and sale of land under this act are contained in Part 254 of this chapter.

(f) The Alaska Public Sales Act of August 30, 1949 (63 Stat. 679; 48 U.S.C. 364 a–e), authorizes the Secretary of the Interior in his discretion to classify certain classes of public lands in Alaska for public sale for industrial or commercial purposes. The regulations governing sales of land under this act are contained in Part 75 of this chapter.

§ 296.2 Criteria for classification of land.

(a) *Policy.* The statutes cited in § 296.1 authorize the Secretary of the Interior, in his discretion, to classify land or otherwise to take appropriate steps looking to its disposition, subject to requirements of the applicable statutes. It is the policy of the Secretary to specify those criteria which will be considered in the exercise of his discretion.

(b) *General criteria.* Factors to be considered in any classification action or other determinations authorized by statutes cited in § 296.1 are as follows:

(1) The capability, suitability, availability and physical characteristics of the lands for the purposes for which they are sought or for any other purposes for which the public land laws were enacted.

(2) Potential demand for the land for public purposes which may require its retention in Federal ownership.

(3) Results of change of land use in terms of benefit or detriment to present or future Federal, State, or local interests. In applying this criterion, comments and views of officials of the Federal agencies, States, counties, municipalities, and other public agencies affected, and private citizens, will be sought and considered where practicable.

(4) Consideration will be given to whether land is subject to mineral permits or leases issued or applied for, or is classified, withdrawn, or reported as valuable for any leasable mineral or lies within the known geologic structure of a producing oil or gas field.

(c) *Additional criteria applicable to agricultural entry.* (1) In the determination whether land will be classified and opened to entry under the regulations of Parts 166, 167, 232, and 234 of this chapter there will be taken into consideration the physical and economic suitability of the land for cultivation, including such factors as soil and water characteristics, topography, climate, location, and accessibility. Consideration may be given to Federal policies affecting the agricultural economy.

(2) When it is determined that the cultivation of land otherwise suitable for agricultural entry under regulations of Parts 166, 167, 232, or 234 of this chapter would endanger the supply of adequate water for existing users or cause the dissipation of water reserves, such land will not be classified and opened to agricultural entry under section 7 of the Taylor Grazing Act.

(3) Land will be classified for entry under the agricultural land laws (Parts 166, 167, 232, or 234 of this chapter) only if there is available to the land sufficient water to permit agricultural devolpment of its cultivable portions. Views of States or their agencies having authority in determining the beneficial use of water shall be considered.

(d) *Private exchange criteria.* In the determination whether an offer to exchange lands of equal value under authority of section 8(b) of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, meets the statutory requirement that the public interest shall be benefited thereby the following factors will be taken into consideration:

(1) The effect upon Federal programs of acquisition of the offered land.

(2) The effect upon Federal programs of disposition of selected lands.

(3) The anticipated cost to the Federal Government of appraisals to determine equality of values, and the disruption of other programs which this may occasion.

§ 296.3 Officers who may exercise classification authority.

(a) The authority of the Secretary of the Interior to classify lands and make other determinations in accordance with the regulations of this part has been delegated to persons authorized to act in his name; to the Director of the Bureau of Land Management and persons authorized to act in his name; to State Directors of the Bureau of Land Management and to any person authorized to act in the name of a State Director.

(b) Classification and other determinations in accordance with the regulations of this part may be made by the authorized officer without applications or petitions having been filed for the lands.

§ 296.4 Procedures for classification.

(a) When land must be classified or designated pursuant to the authorities cited in § 296.1 before an application for entry may be approved, the application together with a Petition for Classification on Form 4–1677 (hereinafter referred to collectively as a "petition-application") will be filed in the appropriate land office in the State in which the lands are located. For lands in North Dakota or South Dakota filings shall be made in the land office at Billings, Montana; in Nebraska or Kansas, filings shall be made in the land office at Cheyenne, Wyoming; in Oklahoma, filings shall be made in the land office at Santa Fe, New Mexico. For lands in all other States, filings shall be made with the Bureau of Land Management, Washington 25, D.C. Lists indicating the proper office for filing of application may be obtained from the Director or any other officer of the Bureau of Land Management. Copies of Form 4–1677 and the application forms may be obtained from the land offices or from the Bureau of Land Management, Washington 25, D.C.

(b) Upon the filing of a petition-application, the authorized officer shall make a preliminary determination as to whether it is regular upon its face and, where there is no apparent defect, shall proceed to examine and classify the land for which it has been filed. No further consideration will be given to the merits of an application or the qualifications of an applicant unless or until the land has been classified for the purpose for which the petition-application has been filed.

(c) The State Director shall make and issue a proposed classification decision which shall contain a statement of reasons in support thereof. The proposed decision shall be served upon each petitioner-applicant for the land and upon any grazing permittee, licensee, or lessee on the land. If the record discloses that comments on the classification have been received from officials or agencies referred to in subsections of 296.2(b)(3) or 296.2(c)(3), an information copy of the proposed classification decision shall be mailed to such persons or agencies.

(d) When there are multiple petition-applications for the same land, the proposed decision shall state which petition-application if any will be entitled to preference under applicable law; or, where no petition-application has been filed for the purpose for which the land is proposed to be classified, the proposed decision shall so state.

(1) When multiple petition-applications have been filed for the same land, the one first filed for the purpose for which it is proposed to classify the land will be entitled to preference under applicable law.

(2) When two or more petition-applications have been simultaneously filed for the purpose for which it is proposed to classify the land, the petition-application entitled to preference will be the first to be selected by drawing.

(3) If no petition-application has been filed for the purpose for which it is proposed to classify the land, the proposed decision shall state that the land will be opened to entry after public notice in accordance with applicable regulations for the purpose for which it may be classified.

(e) For a period of thirty days after the proposed decision on land classification has been served upon the petitioner-applicants and grazing permittees, licensees, or leasees, protest as to the proposed classification may be filed by any interested party with the State Director. No particular form of protest is required under this subparagraph, it being the intent of this procedure to afford the State Director the opportunity to review the proposed decision in the light of such protests.

(1) If no protests are filed within the time allowed, the proposed classification action shall be issued as the initial decision of the State Director, and shall be served on the petitioner-applicants and upon grazing permittees, licensees, or leasees.

(2) If protests are timely filed, they shall be reviewed by the State Director, who may require statements or affidavits, take testimony, or conduct further field investigations as are deemed necessary to establish the facts. At the conclusion of such review, the State Director shall issue an initial decision, either revised or as originally proposed, which shall be served on all interested parties.

(f) The filing of a petition-application gives no right to occupy or settle upon the land. A person shall be entitled to the possession and use of land only after his entry, selection or location has been allowed, or a lease has been issued. Settlement on the land prior to that time constitutes a trespass.

§ 296.5 Administrative review.

(a) For a period of sixty days after service thereof upon all parties in interest, the initial decision of the State Director shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review.

(b) If, sixty days from receipt by parties in interest of the initial decision of the State Director, the Secretary has not either on his own motion, on motion of any protestant, petitioner-applicant, or the State Director, exercised supervisory authority for review, the initial decision shall become the final order of the Secretary, reviewable in the courts as otherwise provided by law.

(c) If supervisory authority of the Secretary is exercised, the initial decision of the State Director shall be deemed vacated, and the final Departmental decision shall be issued by the Secretary of the Interior and served upon all parties in interest.

(d) No petitioner-applicant or protestant to a proposed decision of a State Director to whom the provisions of this section are applicable shall be entitled to any administrative review other than that provided by this section nor to appeal under provisions of Part 221 of this chapter.

§ 296.6 Preference right of petitioner-applicants.

Where public land is classified for entry under section 7 of the Taylor Grazing Act or under the Small Tract Act pursuant to a petition-application filed under this part, the petitioner-applicant is entitled to a preference right of entry, if qualified. If, however, it should be necessary thereafter for any reason to reject the application of the preference right claimant, the next petitioner-applicant in order of filing shall succeed to the preference right. If there is no other petitioner-applicant the land may be opened to application for the purpose for which it is classified or the classification may be revoked by the authorized officer.

§ 296.7 Procedures for allowance and entry.

After lands are classified and opened for entry pursuant to the regulations of this part, all the laws and regulations governing the particular kind of entry, location, selection, or other dispositions must be complied with in order for title to vest or other interests to pass.

[F.R. Doc. 63–6242; Filed, June 13, 1963; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14769]

PART 15—RADIO FREQUENCY DEVICES

All-Channel Television Broadcast Receivers; Correction

The Commission's Second Report and Order of May 29, 1963 (FCC 63-508), published in the FEDERAL REGISTER June 6, 1963, 28 F.R. 5577, is corrected as follows:

1. That portion of § 15.71 preceding paragraph (a) is corrected to read as follows:

§ 15.71 Exemption from all-channel requirement.

Subject to the following conditions, television broadcast receivers manufactured on or before April 30, 1966, which are not capable of receiving all channels allocated by the Commission to television broadcasting may be shipped in interstate commerce or imported into the United States.

* * * * *

Released: June 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6292; Filed, June 13, 1963; 8:54 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

HANDLING OF LIMES GROWN IN FLORIDA

Notice of Proposed Rule Making With Respect to Expenses and Fixing of Rate of Assessment for the 1963–64 Fiscal Year

Consideration is being given to the following proposals by the Florida Lime Administrative Committee established under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that reasonable expenses not to exceed $9,000 will be necessarily incurred by said committee during the fiscal year April 1, 1963, through March 31, 1964, for its maintenance and functioning under the aforesaid amended marketing agreement and order; and

(b) That the Secretary of Agriculture fix, as the pro rata share of such expenses which each handler who first handles limes shall pay during the fiscal year in accordance with the aforesaid amended marketing agreement and order, the rate of assessment of two and one-half cents ($0.025) per bushel, or equivalent quantity of limes so handled by such handler during such fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D.C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

Dated: June 11, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-6286; Filed, June 13, 1963; 8:53 a.m.]

[7 CFR Part 1135]

MILK IN COLORADO SPRINGS-PUEBLO MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the Colorado Springs-Pueblo marketing area is being considered.

The provision proposed to be suspended is that portion of § 1135.46(a)(2)(i), relating to allocation, which reads, "* * * if such fluid milk products are not processed and packaged in the pool plant during the month * * *".

The suspension of this provision would permit packaged milk products received from an Eastern Colorado order pool plant and distributed by a Colorado Springs-Pueblo order handler to be classified and deducted from Class I if they were classified as Class I at the Eastern Colorado pool plant where such products were processed and packaged.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., not later than three days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

Signed at Washington, D.C., on June 11, 1963.

CLARENCE H. GIRARD,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 63-6287; Filed, June 13, 1963; 8:53 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[Docket No. 14557]

RULES APPLICABLE TO COMPROMISE OF CIVIL PENALTIES AND SEIZURE OF AIRCRAFT

Notice of Proposed Rule Making

JUNE 11, 1963.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Subpart H of Part 302 of the Board's Procedural Regulations (14 CFR Part 302) to set forth procedures applicable to the seizure of aircraft subject to a lien for civil penalties in implementation of section 903(b) of the Federal Aviation Act of 1958, as amended, and to correct certain minor clerical errors now contained in the present Subpart H. These amendments are proposed under the authority of sections 204(a), 901, 903, and 1001 of the Federal Aviation Act of 1958, as amended [72 Stat. 743, 783 (as amended by 76 Stat. 149), 786, 788; 49 U.S.C. 1324, 1471, 1473, 1481].

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before July 15, 1963, will be considered by the Board before taking final action on the proposed amendments.

Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

EXPLANATORY STATEMENT

Public Law 87-528, enacted July 10, 1962 (76 Stat. 143), amended section 901(a)(1), the civil penalty provisions of the Federal Aviation Act of 1958, so as to impose civil penalties for violations of Title IV, or any rule, regulation or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under Title IV. Section 901(a)(2) was also amended to allow the Board to compromise these civil penalties. Section 901 had previously imposed civil penalties for violations of Title VII and had allowed the Board to compromise them, and these provisions were continued by the statute.

Section 901(b) of the Act imposes a lien upon the aircraft involved for the civil penalty provided for a violation committed by the owner or person in command, and section 903(b) provides that any aircraft subject to such lien may be summarily seized by and placed in the custody of such persons as the Board may by regulation prescribe.

The Board has heretofore promulgated regulations setting forth procedures applicable for the compromise of civil penalties for economic violations (Subpart H to Part 302, §§ 302.800–807, 14 CFR 302.800–807, eff. April 10, 1963). It has now determined that the promulgation of regulations implementing sections 901(b) and 903(b) of the Act with respect to liens and seizures of aircraft is necessary to carry out such provisions and to exercise and perform its powers and duties under the Act. Also, it ap-

pears that certain minor clerical errors are contained in the present subpart (H) which should be corrected.

PROPOSED RULE

It is proposed to amend Subpart H of Part 302 of the Procedural Regulations (14 CFR Part 302), as follows:

1. By amending the caption of Subpart H to read as follows:

Subpart H—Rules Applicable to Compromise of Civil Penalties and Seizure of Aircraft

2. By amending § 302.800 to read as follows:

§ 302.800 Applicability of this subpart.

This subpart sets forth the special rules applicable to (a) procedures pursuant to section 901(a)(2) of the Federal Aviation Act of 1958, as amended, for the compromise of civil penalties provided for in section 901(a)(1), for the violation of any provision of Title IV (Air Carrier Economic Regulation) of the Act, or any rule, regulation or order issued thereunder; under section 1002(i) (Power to Establish Through Air Transportation Service); or any term, condition or limitation of any permit or certificate issued under Title IV; and (b) procedures pursuant to section 903(b) of the Act applicable to the seizure of aircraft involved in a violation and subject to a lien, pursuant to section 901(b) of the Act, for penalties for which the owner or person in command of such aircraft may be liable for any of the foregoing violations or for violation of any provision of Title VII of the Act (Aircraft Accident Investigation).

§ 302.806 [Amendment]

3. By amending § 302.806(c) to read as follows:

(c) That the Board in accordance with section 901(a)(2) is willing to compromise such civil penalties, and that it is proposed that a specified amount may be acceptable as compromise of such penalties.

4. By adding a new § 302.808 to read as follows:

§ 302.808 Seizure of aircraft.

(a) Under sections 901 and 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1471, 1473), a Federal, State or local law enforcement officer, or a Federal Aviation safety inspector, may, upon an authorization from the Civil Aeronautics Board specifying the reasons therefor, summarily seize an aircraft that is involved in a violation committed by the owner or person in command for which a civil penalty may be imposed for violations of Title IV, or VII, or any rule, regulation or order issued thereunder, or under section 1002(i), or any term, condition or limitation of any permit or certificate issued under Title IV. Such authorization may be issued at such time and in such manner as the Board deems appropriate, and irrespective of whether other procedures under this subpart (H) are pending or proposed.

(b) Each person seizing an aircraft under this section shall place it in the nearest available and adequate public storage facility in the judicial district in which it was seized.

(c) The Board shall without delay send a written notice and a copy of this regulation to the registered owner of the seized aircraft and to each other person known to have an interest therein, including any air carrier or foreign air carrier involved in the violation, stating the—

(1) Time, date, and place of seizure;

(2) Name and address of the custodian of the aircraft;

(3) Reasons for the seizure, including the violations believed or judicially determined, to have been committed; and

(4) Amount that may be tendered as—

(i) A compromise of civil penalty for the alleged violation; or

(ii) Payment for a civil penalty imposed by a Federal court for a proven violation.

(d) The Board shall immediately send a report to the United States District Attorney for the judicial district in which the aircraft was seized, requesting him to institute proceedings to enforce a lien against the aircraft.

(e) The Board shall direct the release of a seized aircraft whenever—

(1) The alleged violator pays a civil penalty or an amount agreed upon in compromise, and the costs of seizing, storing, and maintaining the aircraft;

(2) The aircraft is seized under an order of a Federal court in proceedings in rem to enforce a lien against the aircraft, or the United States Attorney for the judicial district concerned notifies the Board that he refuses to institute those proceedings; or

(3) A bond in the amount and with the sureties prescribed by the Board is deposited, conditioned on payment of the penalty, or the compromise amount, and the costs of seizing, storing, and maintaining the aircraft.

[F.R. Doc. 63-6283; Filed, June 13, 1963; 8:52 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 40]

[Notice No. 63-20; Docket No. 1794]

SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

Notice of Proposed Rule Making

The Federal Aviation Agency has under consideration a proposal to amend Part 40 of the Civil Air Regulations as hereinafter set forth.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they desire. Communications should identify the notice or docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel: Attention Rules Docket, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before August 15, 1963, will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of comments received, and if finally promulgated will be subject to such changes as may be necessary for its recodification under the Agency's Recodification Program, as announced in Draft Release 61-25 (26 F.R. 10698). All comments submitted will be available in the Docket Section for examination by interested persons at any time.

Presently effective Part 40 of the Civil Air Regulations contains safety certification and operation rules which govern air carriers holding economic certificate authority from the Civil Aeronautics Board to engage in unlimited scheduled service in interstate air transportation within the continental limits of the United States, exclusive of the State of Alaska.

Part 40 was last revised on December 31, 1955. A review of the provisions of that Part indicates the need for some substantive changes to reflect current Agency and industry views with respect to operating procedures. In addition, certain of the changes proposed herein incorporate, without any basic change, provisions contained in operations specifications or related Civil Aeronautics Manual material.

Some of the more significant changes which would be made to Part 40 by this proposal are as follows:

1. Section 40.1, *Applicability of this part.* This section would be amended to specify the applicability of the Part with greater particularity and accuracy so as to more clearly distinguish the certificated route air carriers governed by Part 40 from those governed by Part 41 and the supplemental air carriers governed by Part 42 of the Civil Air Regulations.

Proposed paragraph (b) of § 40.1 specifies those persons other than the air carrier itself who are subject to certain of the rules in Part 40.

2. Section 40.11, *Contents of certificate.* It is proposed to amend § 40.11 in order to update the provisions regarding the content of the air carrier operating certificate.

Proposed § 40.11 provides that airports to or from which, and the routes over which, the air carrier is authorized to operate shall be a part of the carrier's operating certificate. However, for administrative reasons, and to avoid repetitive listings, the rule provides for such routes and airports to continue to be listed in the operations specifications and incorporates them into the certificate by reference. Other airport and en route authorizations and limitations, such as weather minimums, would not be made a part of the air carrier operating certificate.

3. Section 40.13, *Issuance of certificate.* It is proposed to add a new paragraph (c) to § 40.13 to provide that Part 40 air carriers holding economic authority to engage in scheduled cargo-only operations may, upon application, be authorized by the Administrator to conduct such operations under the certification and operation rules of Part 42 of the Civil Air Regulations.

4. Section 40.14, *Amendment of certificate.* The amendment proposed for § 40.14 specifies the procedures to be followed for processing an amendment to an air carrier operating certificate.

When an amendment to an air carrier operating certificate is initiated by the Administrator, he will follow the procedures published in Part 13 [New] of the Federal Aviation Regulations. These procedures are in accord with the statutory requirements of § 609 of the Federal Aviation Act. Thus, the provisions of Part 13 recognize the right of an air carrier to appeal to the Board from an order of the Administrator which amends its air carrier operating certificate.

However, under the provisions of § 40.14, if the air carrier initiates the action and makes application for an amendment to provisions of its operating certificate, the Administrator or his representative would be able to issue the amendment requested by the air carrier if he determined that safety in air transportation and the public interest permitted it. Should a representative of the Administrator deny approval of the certificate amendment requested, the rule proposed would give the air carrier the right to petition the Administrator to review the denial, since there is no right of appeal to the Civil Aeronautics Board under the Federal Aviation Act of 1958 in such cases of denial.

5. Section 40.20, *Utilization of operations specifications.* This section currently requires excerpts from the operations specifications or references thereto to be inserted in the manual issued by the air carrier. It is proposed to amend this provision and require that such excerpts and references be inserted in the manual in such a manner that they do not lose their identity and can be recognized as operations specifications material.

6. Section 40.21, *Amendment of operations specifications.* It is proposed to amend this section to incorporate the procedures governing the amendment of operations specifications. These procedures provide standards for the amendment of operations specifications as well as procedures for filing with the Administrator a petition for reconsideration of an amendment applied for by the air carrier. It should be noted, however, that the procedures proposed for the amendment of operations specifications would not apply in the case of airports and routes which, although listed in the operations specifications, are a part of the operating certificate by virtue of § 40.11. An amendment affecting a change in the latter would be governed by the procedures contained in proposed § 40.14, which governs amendments to operating certificates.

7. Sections 40.30, 40.31, 40.32, *Route requirements, Width of routes, and IFR routes outside of control areas.* Since 1957 there has been a significant increase in the number of aircraft capable of "high-altitude operations." To cope with the resulting increase in traffic density at altitudes above 12,500 feet, a number of changes and improvements have been made in the air traffic control system, and significant advances have been made to improve navigational facilities, radar facilities, and communications facilities. Numerous changes such as increasing the number of airways, the establishment of the Continental Control Area, which includes all airspace in the United States above 14,500 feet MSL, and the designation of Positive Control Areas have been made for the purpose of insuring more positive and safe separation of air traffic.

As a result of these changes in the air traffic control system, the concept of "high-altitude operations", which originated in 1945 when only occasional flights operated above 12,500 feet, is an obsolete concept. Accordingly, it is proposed to delete the definition of "high-altitude operations" from § 40.5.

Similarly, with the establishment of the Continental Control Area, the proviso to § 40.32 has been rendered inappropriate, since practically all of the airspace in which present operations are conducted is now controlled airspace. In addition, the proviso to §§ 40.30 and 40.31 regarding VFR high-altitude routes is no longer consistent with efforts being made to insure more positive separation of air traffic, and has been eliminated. Accordingly, it is proposed to amend §§ 40.30, 40.31, and 40.32 for the purpose of up-dating the current rules of these sections and to insure safer and more positive separation of air traffic.

It will be noted that the substance of currently effective § 40.32 would be incorporated in the general provisions of proposed § 40.30. Accordingly, it is proposed to delete currently effective § 40.32 and redesignate currently effective § 40.31 as § 40.32.

8. Section 40.36, *En route navigational facilities.* It is proposed to amend the proviso to this section for the purpose of achieving regulatory consistency, and to add a note which expresses the Agency's intent to list in the operations specifications of the air carrier those navigational facilities required for the approval of routes outside of controlled airspace. Excluded from this policy statement are those facilities required for routes to alternate airports. The agency has determined that only by listing required navigational facilities in the operations specifications can adequate control be maintained over the continuing approval of routes outside of controlled airspace.

9. Section 40.53, *Airplane Flight Manual.* It is proposed to amend paragraph (b) of § 40.53 in order to insure that when required sections of the Airplane Flight Manual are incorporated into the Air Carrier Manual they do not lose their identity as such. This amendment is proposed for the reason that the Agency considers it important that users know and appreciate which material is FAA approved in accordance with §§ 4b.740(b) and 4b.740–1 of the regulations and which is company policy. Such an amendment will clarify FAA policy regarding this matter as specified in Part 4b of the Civil Air Regulations.

10. Sections 40.61, 40.62, 40.70, 40.90, and 40.110, *Airplane certification and other special requirements.* The Agency is of the opinion that the certification requirements of § 40.61, the airplane limitations of § 40.62, the transport category airplane operating limitations of § 40.70, the nontransport category airplane limitations of § 40.90, and the special airworthiness requirements of § 40.110 should logically apply to cargo-carrying airplanes as well as passenger-carrying airplanes in the interest of safety. Accordingly, it is proposed to amend these sections by deleting those words which presently restrict the applicability of the sections to passenger-carrying airplanes.

11. Section 40.154, *Carriage of cargo in cargo compartments.* This new section is proposed in the interest of safety to insure that cargo compartments which by design require the use of a hand-operated fire extinguisher to extinguish a fire occurring in the compartment are loaded with cargo in such a manner as to permit a crewmember using a hand operated extinguisher to reach all parts of the compartment with the contents of the extinguisher.

12. Section 40.173, *Emergency equipment for all operations.* It is proposed to amend paragraph (a) of this section to incorporate in the rules a requirement for the inspection of emergency equipment in accordance with inspection periods established in the operations specifications of the air carrier to insure continued serviceability and immediate readiness of the equipment for its intended emergency purposes. The substance of this proposal is currently set forth as FAA policy in § 40.18–4(f)(4).

In addition, it is proposed to amend paragraph (c) of § 40.173 to require approved first-aid kits which meet the specifications and requirements prescribed in a new Appendix which would be added to Part 40 by this proposal.

13. Section 40.174, *Seats and safety belts for all occupants.* It is proposed to amend this section to clarify the requirements for seat belts and the uses thereof. The amendment proposed would require each person on board the airplane to occupy a seat or berth with a safety belt fastened during takeoff and landing.

14. Section 40.176, *Cockpit check procedure.* To insure completeness and uniformity in cockpit check procedures, the amendment proposed for this section would require the cockpit check procedure for each type of airplane used to be approved. In addition, the proposed amendment would require the flight crewmembers to follow the approved procedures when operating an airplane.

15. Section 40.179, *Shoulder harness.* This proposed section is new and would require all transport type airplanes certificated after January 1, 1958, to be equipped with shoulder harnesses at the pilot in command, second in command, and flight engineer stations. The safety benefits to be derived from the shoulder harness are most apparent in connection with the newer and faster types of transport airplanes, and these would be subject to this proposed rule.

16. Section 40.233, *Radio equipment for extended overwater operations and for certain other operations.* This proposed section is new. Its purpose would be to insure that there is adequate communications equipment aboard the airplane, in the event there is a failure of one communications system, while en-

gaging in extended overwater operations or other operations for which the Administrator finds such equipment requirements to be necessary in the interest of safety.

17. Sections 40.265 and 40.267, *Flight attendant, assignment of emergency and evacuation functions for each crewmember.* The Agency indicated in the Civil Air Regulations, miscellaneous amendments 41–3, that it would continue its study of the entire subject of the assignment of flight attendants on airplanes operated by air carriers and large commercial operators for the purpose of inaugurating further rule making. This study also includes a study of the emergency evacuation functions assigned to each crewmember. Proposals covering these sections have not been included in this notice, since a separate notice will be issued at a later date covering these sections.

18. Sections 40.280 through 40.290, *Training program and airman training requirements.* It is proposed to amend §§ 40.280 through 40.290 by deleting §§ 40.289 and 40.290 and incorporating in lieu of § 40.289 the recurrent training requirement in the individual section applicable to the type of airman involved. Section 40.290 is deleted since the approval of training programs has been provided for in § 40.280(a).

19. Section 40.302, *Pilot checks.* Sections 40.280(b) and 40.302(a) currently require the 12-month line check to be given by a check pilot who holds the same airman certificate and ratings as required for the pilot being checked and who is qualified for the route. It is proposed to amend § 40.302 for the purposes of up-dating the provisions and clarifying the intent of the current rules to require the check pilot to be qualified on the particular airplane as well as for the route.

20. Section 40.307, *Flight engineer qualification for duty.* To clarify the Agency's intent and achieve regulatory uniformity, it is proposed to amend this section and expressly prohibit the required flight check from being accomplished in scheduled air transportation.

21. Section 40.310, *Aircraft dispatcher qualification for duty.* To permit greater flexibility in the qualification of dispatchers, it is proposed to amend this section to require a dispatcher within the preceding 12 months to make only a one-way trip, rather than a round trip, over the particular area in which he is to be authorized to exercise dispatch jurisdiction.

22. Section 40.390, *Alternate airport weather minimums.* The Agency proposes to delete the airport weather minimums from this Part and specify these minimums in the air carrier's operations specifications in order to provide standardization among the operating rules.

23. Section 40.391, *Continuance of flight; flight hazards.* For a number of years the Agency has considered it necessary in the interest of safety in air transportation to approve a minimum equipment list ("go-no-go") to govern en route operations with required equipment inoperative. Comments received in response to Civil Air Regulations Draft Release No. 60–19 (recently published as Revised Part 41), have raised questions concerning the Agency's practice of approving minimum equipment lists incorporated in the carrier's manuals for en route operations since such approval was not expressly provided for in § 40.391(b).

The Agency considers this current practice of approving minimum equipment lists and procedures governing en route operations with required equipment inoperative to be necessary to insure the highest degree of safety in air transportation. Such a practice is also necessary in order to provide a uniform set of approved procedures applicable to modern complex airplanes.

Accordingly, it is proposed to amend paragraph (b) of § 40.391 to expressly require approval of the minimum equipment list for operations en route, as well as those procedures for continuance of flight beyond a terminal point.

Since the procedures required by paragraph (b) apply to the airplane while in flight, as well as on the ground at intermediate stops, § 40.51 requires them to be specified in that portion of the air carrier manual which is available to the pilot and appropriate ground personnel.

24. Section 40.408, *Flight altitude rules.* It is proposed to amend this section to delete those provisions pertaining to high-altitude operations because they are considered obsolete.

25. Section 40.507, *Maintenance log.* In view of the fact that overhaul time limits are generally based on reliability which can reasonably be expected throughout the period between overhauls, because of progressive maintenance and overhaul systems now in use, the requirement in the present rule for overhaul times to be set forth in the maintenance log is considered unnecessary. It is therefore proposed to delete the requirement.

26. Section 40.510, *Alteration and repair reports.* The Agency believes that since the accomplishment of major repairs is a routine maintenance matter, there is no need to require reports of major repairs to be submitted to the FAA, as long as such reports are made available to the FAA for inspection. Accordingly, it is proposed to amend § 40.510 to delete the reporting requirement for major repairs.

In consideration of the foregoing, it is proposed to amend Part 40 of the Civil Air Regulations as follows:

1. By amending § 40.1 to read as follows:

§ 40.1 Applicability of this part.

The provisions of this part are applicable to the following persons:

(a) An air carrier holding a certificate of public convenience and necessity issued by the Board which authorizes unlimited scheduled service over designated routes, when it engages with airplanes in scheduled interstate air transportation within the continental limits of the United States, excluding the State of Alaska: *Provided,* That in the case of segments of routes extending beyond the continental limits of the United States the Administrator may authorize an air carrier to conduct operations over such route segments under the provisions of this part.

(b) Any airman or other person employed or used by an air carrier in the conduct of operations subject to this part (including the operation, inspection, maintenance, and overhaul of aircraft) and any person while on board an airplane operated by an air carrier under this part.

2. By amending § 40.5 by deleting the definition of "High-altitude operation".

3. By amending § 40.11 to read as follows:

§ 40.11 Contents of certificate.

The air carrier operating certificate shall contain the name of the air carrier, and the airports to or from which, and the routes over which, the air carrier is authorized to operate: *Provided,* That such airports and routes shall be listed in the operations specifications of the air carrier and incorporated into the contents of the air carrier operating certificate by reference thereto in the certificate.

NOTE: The airports, and locations thereof, are listed under the "airport authorizations and limitations" part of the operations specifications. The routes including the airways where applicable are listed in the "En route Flight Procedures"—Form ACA–514A of the operations specifications.

4. By amending § 40.13 by adding a new paragraph (c) to read as follows:

§ 40.13 Issuance of certificate.

* * * * *

(c) An air carrier holding economic authority to engage in scheduled cargo-only operations in interstate air transportation may, upon application, be authorized by the Administrator to conduct such operations in accordance with the air carrier certification and operation rules prescribed in Part 42 of this chapter (Civil Air Regulations).

5. By amending § 40.14 to read as follows:

§ 40.14 Amendment of certificate.

(a) An air carrier operating certificate may be amended by the Administrator in accordance with section 609 of the Federal Aviation Act of 1958, and the applicable procedures in Part 13 of this chapter (Federal Aviation Regulations) whenever he determines that safety in air transportation and the public interest so require.

(b) Upon application by an air carrier, an authorized representative of the Administrator may amend an air carrier operating certificate if he determines that safety in air transportation and the public interest permit such an amendment. Within 30 days after the refusal of an authorized representative of the Administrator to approve an air carrier's application for amendment, the air carrier may petition the Administrators for a review of such refusal.

(c) Applications by the air carrier for amendments of air carrier operating certificates shall be submitted to the local FAA Air Carrier District Office charged with the overall inspection of the

air carrier's operations at least 15 days prior to the proposed effective dates of such amendments, unless an authorized representative of such office approves a shorter filing period.

6. By amending § 40.20 to read as follows:

§ 40.20 Utilization of operations specifications.

The air carrier shall keep its personnel informed with respect to the contents of the operations specifications and all amendments thereto applicable to the individual's duties and responsibilities. A set of specifications shall be maintained by the air carrier as a separate and complete document. Pertinent excerpts from the specifications or references thereto shall be inserted in the manual issued by the air carrier in such a manner that they do not lose their identity in any respect.

7. By amending § 40.21 to read as follows:

§ 40.21 Amendment of operations specifications.

The following procedures apply to the amendment of operations specifications (except those which are a part of the air carrier operating certificate issued under § 40.13) issued to an air carrier under the provisions of this part:

(a) Upon application by the air carrier an authorized representative of the Administrator may amend an operations specification if he determines that safety in air transportation and the public interest permit such an amendment;

(b) Applications for amendments of operations specifications shall be submitted to the local FAA Air Carrier District Office charged with the overall inspection of the air carrier's operations at least 15 days prior to the proposed effective dates of such amendments, unless an authorized representative of such office approves a shorter filing period;

(c) Within 30 days after a notice of refusal to approve an air carrier's application for amendment, the air carrier may petition the Administrator to reconsider the refusal to amend.

(d) An authorized representative of the Administrator may amend an operations specification if he determines that safety in air transportation and the public interest require such an amendment. In such instances, the supervising inspector of the FAA Air Carrier District Office shall give notice in writing to the air carrier of a proposed amendment in the operations specifications, fixing a reasonable period, not less than 7 days, within which the air carrier may submit written data, views, and arguments concerning the proposed amendment. After consideration of all relevant matter presented, the supervising inspector shall notify the air carrier of any amendment adopted, or a rescission of the notice. The amendment shall become effective not less than 30 days after receipt by the air carrier of the notice of the amendment, unless the air carrier petitions the Administrator for reconsideration of the amendment, in which case, the effective date of the amendment shall be stayed pending a decision by the Administrator. If the supervising inspector finds that an emergency exists requiring immediate action with respect to safety in air transportation which makes the provisions prescribed by this paragraph impracticable, or contrary to the public interest, he may notify the air carrier of an amendment to the operations specifications without giving prior notice, or make the amendment effective without stay upon receipt by the air carrier of notice thereof, or both. In such instances he will incorporate the finding and a brief statement of the reasons therefor in the notice of the amended operations specifications to be adopted.

8. By amending § 40.23 to read as follows:

§ 40.23 Operations and maintenance base and office.

Each air carrier shall, 30 days in advance of a change in the address of its principal business office, its principal operations base, or its principal maintenance base, give written notice thereof to the FAA Air Carrier District Office charged with overall inspection of the air carrier's operations.

9. By amending § 40.30 to read as follows:

§ 40.30 General route requirements.

The air carrier shall show for route approvals that it is competent to conduct scheduled operations over any route or route segment to be used between any regular, provisional, or refueling airport, and that the facilities and services required by §§ 40.33 through 40.38 are available and adequate for the type of operation proposed. Routes outside of controlled airspace will be approved unless the Administrator determines that traffic density is such that an adequate level of safety cannot be assured. Actual flight over a route or route segment will be required, unless the air carrier shows that such flight is not essential to safety, considering the availability and adequacy of airports, lighting, maintenance, communication, navigation, fueling, ground and aircraft radio facilities, and the competence of personnel to be used in the proposed operations.

10. By deleting currently effective § 40.32.

11. By redesignating § 40.31 as § 40.32 and by amending the redesignated section to read as follows:

§ 40.32 Width of routes.

Routes approved for operations over U.S. Federal airways or foreign airways shall have a width equal to the designated width of such airways. In the case of other approved routes, when an authorized representative of the Administrator determines it to be necessary, he shall establish route widths taking into consideration terrain clearance and minimum en route altitudes, available ground and airborne navigational aids, air traffic density, and air traffic control procedures. In such instances the route widths shall be specified in the air carrier's operations specifications.

12. By amending the proviso of § 40.36 *En route navigational facilities*, to read as follows: "*Provided*, That nonvisual ground aids to navigation are not required for (a) day VFR operations which the air carrier shows can be conducted safely by pilotage because of the characteristics of the terrain, (b) night VFR operations on routes which the air carrier shows have reliably lighted landmarks which are adequate for safe operations. Nonvisual ground navigational aids required for approval of routes outside of controlled airspace are specified in the air carrier operations specifications, except those aids required for routes to alternate airports."

13. By amending § 40.51(a)(4) by adding thereto the phrase "including procedures for coordinated dispatch."

14. By amending § 40.52(a)(2) by deleting the word "Flight" from the term "Flight crewmember".

15. By amending § 40.53(b) by adding thereto a sentence which reads "When sections of the required information from the Airplane Flight Manual are incorporated in the Air Carrier Manual, they shall be clearly identified as Airplane Flight Manual requirements."

16. By amending § 40.60 by inserting between the words "part" and "and" in the second sentence the following phrase "is registered as a civil aircraft of the United States,".

17. By amending § 40.61(b) by deleting the words "and used in passenger operation".

18. By amending § 40.62 by deleting from the introductory paragraph to that section the words "in passenger air transportation"; and by deleting from paragraph (a) the words "in passenger-carrying operations".

19. By amending § 40.62(b) to read as follows:

§ 40.62 Airplane limitations for type of route.

* * * * *

(b) *Land airplanes on extended overwater routes.* Land airplanes operated on flights involving extended overwater operations shall be certificated or approved as adequate for ditching in accordance with the ditching provisions of Part 4b of this chapter (Civil Air Regulations): *Provided*, That the DC-3, C-46, CV-340, and CV-440 type airplanes need not be so certificated or approved.

20. By amending § 40.63 by adding the following new sentence at the end of paragraph (b), and by amending paragraph (c), to read as follows:

§ 40.63 Proving tests.

(b) * * * A type of airplane has been materially altered in design when the alterations include: (1) Installation of powerplants other than the powerplants of a type similar to those with which the airplane is certificated, or (2) a major alteration to the airplane or its components which materially affects the flight characteristics.

(c) During proving tests only those persons required to make the tests and those designated by the Administrator shall be carried. Mail, express, and

other cargo may be carried when approved.

21. By amending § 40.70 to read as follows:

§ 40.70 Transport category airplane operating limitations.

(a) In operating any transport category airplane not subject to paragraph (b) of this section, the provisions of this paragraph and §§ 40.71 through 40.78 shall be complied with: *Provided,* That an authorized representative of the Administrator may authorize deviations from such provisions when special circumstances of a particular case make a literal observance of the requirements unnecessary for safety.

NOTE: Deviations authorized will be specified in operations specifications of the air carrier.

(1) The performance data contained in the Airplane Flight Manual shall be applied in determining compliance with these provisions. Where conditions differ from those for which specific tests were made, compliance shall be determined by interpolation or by computation of the effects of changes in the specific variables where such interpolations or computations will give results substantially equaling in accuracy the results of a direct test.

(2) The airplane shall not be taken off at a weight which exceeds the allowable weight for the runway being used as determined in accordance with the takeoff runway limitations of the transport category operating rules of this part, after taking into account the temperature operating correction factors required by §§ 4a.749a–T or 4b.117 of this chapter (Civil Air Regulations), and set forth in the Airplane Flight Manual for the airplane.

(b) In operating any turbine-powered transport category airplane certificated in accordance with the performance requirements of Special Civil Air Regulations Nos. SR–422, SR–422A, or SR–422B, the operating rules specified in the applicable Special Civil Air Regulation shall be complied with in lieu of §§ 40.71 through 40.78.

22. By amending § 40.90 to read as follows:

§ 40.90 Nontransport category airplane operating limitations.

In operating any large, nontransport category airplane, the provisions of §§ 40.91 through 40.94 shall be complied with: *Provided,* That an authorized representative of the Administrator may authorize deviations from such provisions when the special circumstances of a particular case make a literal observance of the requirements unnecessary for safety. Approved performance data only shall be used in determining compliance with the provisions of §§ 40.91 through 40.94.

NOTE: Deviations authorized will be specified in operations specifications of the air carrier.

23. By amending § 40.110 by deleting the words "used in passenger service".

24. By amending § 40.115(c) by amending the first sentence thereof to read as follows: "Cargo and baggage compartments shall be classified in the 'C' category if they do not conform with the requirements for the 'A', 'B', 'D', or 'E' categories."

25. By amending § 40.115 by adding new paragraphs (d) and (e) to read as follows:

§ 40.115 Fire precautions.

* * * * *

(d) *Class D.* Cargo and baggage compartments shall be classified in the "D" category if they are so designed and constructed that a fire occurring therein will be completely confined without endangering the safety of the airplane or the occupants. Compliance shall be shown with subparagraphs (1) through (4) of this paragraph.

(1) Means shall be provided to exclude hazardous quantities of smoke, flames, or other noxious gases from entering into any compartment occupied by the crew or passengers.

(2) Ventilation and drafts shall be controlled within each compartment so that any fire likely to occur in the compartment will not progress beyond safe limits.

NOTE: For compartments having a volume not in excess of 500 cubic feet, an airflow of not more than 1,500 cubic feet per hour is considered acceptable. For larger compartments lesser airflow may be applicable.

(3) The compartment shall be completely lined with fire-resistant material.

(4) Consideration shall be given to the effect of heat within the compartment on adjacent critical parts of the airplane.

(e) *Class E.* On airplanes used for the carriage of cargo only it shall be acceptable to classify the cabin area as a Class "E" compartment. Compliance shall be shown with subparagraphs (1) through (5) of this paragraph.

(1) The compartment shall be completely lined with fire-resistant material.

(2) The compartment shall be equipped with a separate system of an approved type smoke or fire detector to give warning at the pilot or flight engineer station.

(3) Means shall be provided to shut off the ventilating airflow to or within the compartment. Controls for such means shall be accessible to the flight crew in the crew compartment.

(4) Means shall be provided to exclude hazardous quantities of smoke, flames, or noxious gases from entering the flight crew compartment.

(5) Required crew emergency exits shall remain accessible under all cargo loading conditions.

26. By amending § 40.125 to read as follows:

§ 40.125 Oil system drains.

Accessible drains shall be provided to permit safe drainage of the entire oil system and shall incorporate either a manual or automatic means for positive locking in the closed position. (See also § 40.135.)

27. By amending § 40.136(a) by deleting the words "Unless it can be demonstrated" and inserting in lieu thereof the words "Unless the air carrier shows".

28. By amending § 40.151 by deleting the words "Administrator finds" and inserting in lieu thereof the words "air carrier shows".

29. By adding a new § 40.154 to read as follows:

§ 40.154 Carriage of cargo in cargo compartments.

When cargo is carried in cargo compartments which are so designed as to require the physical entry of a crewmember to extinguish any fire which may occur during flight, the cargo shall be so loaded as to permit a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

30. By amending § 40.170 to read as follows:

§ 40.170 Airplane instruments and equipment for all operations.

(a) Instruments and equipment required by §§ 40.171 through 40.233 shall be approved and shall be installed in accordance with the provisions of the airworthiness requirements applicable to the instruments or equipment concerned.

(b) All airspeed indicators shall be calibrated in knots, and all airspeed limitations and related information contained in the Airplane Flight Manual and pertinent placards shall be expressed in knots.

(c) The following instruments and equipment shall be in operable condition prior to takeoff, except as provided in § 40.391(b) for continuance of flight with equipment inoperative:

(1) Instruments and equipment required to comply with airworthiness requirements under which the airplane is type certificated and as required by the provisions of § 40.110 and §§ 40.150 through 40.154; and

(2) Instruments and equipment specified in §§ 40.171 through 40.179 for all operations, and the instruments and equipment specified in §§ 40.200 through 40.233 for the type of operation indicated, wherever these items are not already provided in accordance with subparagraph (1) of this paragraph.

NOTE: Instruments and equipment specified in §§ 40.171, 40.172, and 40.230 through 40.233 are approved in accordance with one or more of the following:

(A) As a part of the original airplane type design;

(B) Under applicable Technical Standard Orders and installed under original airplane type certification, or subsequent installation in accordance with airworthiness and alteration requirements (Parts 1 and 18 of this chapter (Civil Air Regulations)); or

(C) Under an FAA type certificate and installed under original airplane certification, or subsequent installation in accordance with airworthiness and alteration requirements (Parts 1 and 18 of this chapter (Civil Air Regulations)).

31. By amending § 40.173 (a) and (c) to read as follows:

§ 40.173 Emergency equipment for all operations.

(a) *General.* The emergency equipment specified in this section is required for all operations and shall be inspected regularly in accordance with inspection periods established in the operations

specifications to insure the continued serviceability and immediate readiness of such equipment for its intended emergency purposes. All required equipment shall be readily accessible to the crew, and the method of operation shall be plainly indicated. When such equipment is carried in compartments or containers, the compartments or containers shall be marked as to contents and date of last inspection.

(b) * * *

(c) *First-aid equipment.* Approved first-aid kits as specified in Appendix — to this part for treatment of injuries likely to occur in flight or in minor accidents shall be provided.

NOTE: See Appendix — for type and contents of first-aid kits.

32. By amending § 40.174 to read as follows:

§ 40.174 Seats and safety belts for all occupants.

(a) The air carriers shall provide and make available at all times during the takeoff, en route flight, and landing of an airplane which it is operating:

(1) An approved seat or berth for each person over 2 years of age aboard the airplane, and

(2) An approved safety belt for separate use by each person over 2 years of age aboard the airplane, except that two persons occupying a berth may be provided with one approved safety belt to be shared by both such persons, and two persons occupying a multiple lounge or divan seat may be provided with one approved safety belt to be shared by both such persons during en route flight only.

(b) During the takeoff and landing of an air carrier airplane, each person on board shall occupy an approved seat or berth and secure themselves with the approved safety belt provided for the occupant of such seat or berth, except that a person 2 years of age or less may be held by an adult person occupying a seat or berth. A safety belt provided for the occupant of a seat shall not be used by more than one adult during takeoff and landing.

33. By amending § 40.176 to read as follows:

§ 40.176 Cockpit check procedure.

The air carrier shall provide for each type of airplane an approved cockpit check procedure. The approved procedures shall include all items necessary for flight crewmembers to check for safety prior to starting engines, prior to taking off, prior to landing, and in engine and systems emergencies, and shall be so designed as to obviate the necessity for a flight crewmember to rely upon his memory for items to be checked. The approved procedures shall be readily usable in the cockpit of each airplane and shall be followed by the flight crew when operating the airplane.

34. By amending § 40.177 to read as follows:

§ 40.177 Passenger information for all operations.

All airplanes shall be equipped with signs visible to passengers and cabin attendants to notify such persons when smoking is prohibited and when safety belts should be fastened. These signs shall be capable of on-off operation by the crew and shall be placed in the "on position" for all takeoffs and landings and when otherwise deemed necessary by the pilot in command. No passenger or cabin attendant will smoke while the no smoking sign is lighted and all passengers will fasten their seat belts and keep them fastened while the seat belt sign is lighted.

35. By adding a new § 40.179 to read as follows:

§ 40.179 Shoulder harness.

All transport type airplanes certificated after January 1, 1958, shall be equipped with shoulder harnesses at the pilot in command, the second in command, and flight engineer stations.

36. By amending § 40.200 by changing the words "§§ 40.171 through 40.178" in the introductory paragraph to read "§§ 40.171 through 40.179".

37. By amending § 40.201 by changing the words "§§ 40.171 through 40.178" in the introductory paragraph to read "§§ 40.171 through 40.179".

38. By amending § 40.202(a) by amending the last sentence of the paragraph to read as follows: "As used in the oxygen requirements hereinafter set forth, 'cabin pressure altitude' shall mean the pressure altitude corresponding with the pressure in the cabin of the airplane, and 'flight altitude' shall mean the altitude above sea level at which the airplane is operated; for airplanes not equipped with pressurized cabins, 'cabin pressure altitude' and 'flight altitude' shall be considered identical."

39. By amending § 40.204 by amending each of the provisos in paragraphs (a) and (b) thereof to read as follows: "*Provided,* That if the air carrier shows full compliance with such standards to be impracticable, an authorized representative of the Administrator may authorize such changes in these standards as he finds will provide an equivalent level of safety."

40. By amending § 40.206 to read as follows:

§ 40.206 Equipment for extended overwater operations.

(a) The following equipment shall be carried on an airplane used in extended overwater operations: *Provided,* That an authorized representative of the Administrator may, be amending the operations specifications of an air carrier as provided in § 40.21, require the carriage of all the prescribed equipment or any item thereof for any operation over water or, upon application of an air carrier, permit deviation from these requirements for a particular extended overwater operation:

(1) A life preserver for each occupant of the airplane;

(2) Liferafts sufficient in number and of such rated capacity and buoyancy as to accommodate all occupants of the airplane;

(3) Suitable pyrotechnic signaling devices; and

(4) One portable emergency radio signaling device, capable of transmission on the appropriate emergency frequency or frequencies, which is not dependent upon the airplane power supply and which is self-buoyant and water-resistant.

(b) All required liferafts, life preservers and signaling devices shall be easily accessible in the event of a ditching without appreciable time for preparatory procedures. This equipment shall be installed in conspicuously marked approved locations.

(c) Survival kit, appropriately equipped for the route to be flown, shall be attached to each required liferaft.

41. By adding a new § 40.233 to read as follows:

§ 40.233 Radio equipment for extended overwater operations and for certain other operations.

For the following operations each airplane shall be equipped with such radio equipment as is necessary to fulfill the functions specified in § 40.232 and in addition, by an independent system, the functions specified in § 40.231(a)(1):

(a) Extended overwater operations; and

(b) Operations for which an authorized representative of the Administrator finds such equipment to be necessary for search and rescue operations because of the character of the terrain to be flown over.

42. By amending § 40.260(a) to read as follows:

§ 40.260 Utilization of airman.

(a) No air carrier shall utilize an individual as an airman unless he holds an appropriate and currently effective airman certificate issued by the Administrator and is otherwise qualified for the particular operation in which he is to be utilized. He shall have appropriate airman and medical certificates in his personal possession while engaged in operations under this part, and shall present the same for examination to any authorized representative of the Administrator upon request.

43. By amending § 40.261(a) to read as follows:

§ 40.261 Composition of flight crew.

(a) No air carrier shall operate an airplane with less than the minimum flight crew specified in the airworthiness certificate or in the Airplane Flight Manual approved for such type of airplane and required by this part for the type of operation being conducted.

44. By amending § 40.280(a) by adding thereto the following sentence: "The training program shall meet with the approval of an authorized representative of the Administrator."

45. By amending § 40.280 (c) and (d) by changing the references therein to "§ 40.286" to read "§ 40.285".

46. By amending § 40.281 by amending the title and introductory sentence; by

redesignating paragraphs (a)–(i) as subparagraphs (1)–(9) of a new paragraph (a), by adding a new paragraph (a)(10), and by adding a new paragraph (b) to read as follows:

§ 40.281 Pilot ground training.

(a) Ground training for each pilot prior to serving as a flight crewmember shall include instruction in at least the following:

* * * * *

(10) Communications procedures, including procedures to be used in the event any of the communications equipment required by this part becomes inoperative.

(b) The air carrier shall give each pilot such additional ground training as is necessary to insure qualification with respect to any new equipment, procedures, or techniques. At least once within the preceding 12 months, as a part of the training program, recurrent ground training and checks shall be provided to insure the continued proficiency of each pilot, with respect to procedures, techniques, and information essential to the satisfactory performance of his duties. The check may be given at any time during the month preceding or following the month in which it becomes due. However, if given within the preceding or following month, it has the same effect as if given within the month in which it became due.

47. By amending § 40.282 by amending the title and first sentence of paragraph (a), and by adding a new paragraph (d), to read as follows:

§ 40.282 Pilot flight training.

(a) Flight training for each pilot prior to serving as a flight crewmember shall include at least takeoffs and landings, during day and night, and normal and emergency flight maneuvers in each type of airplane to be flown by him in scheduled operations, and flight under simulated instrument flight conditions. * * *

(d) The air carrier shall give each pilot such additional flight training as is necessary to insure qualification with respect to any new equipment, procedures, or techniques. At least once within the preceding 12 months, as a part of the training program, recurrent flight training and checks shall be provided to insure the continued proficiency of each pilot with respect to procedures, techniques, and information essential to the satisfactory performance of his duties. The check may be given at any time during the month preceding or following the month in which it becomes due. However, if given within the preceding or following month, it has the same effect as if given within the month in which it became due. Where the check of the pilot in command or second in command requires actual flight, satisfactory completion of the applicable proficiency checks required by § 40.302 or 40.305 will meet the requirements of this section.

48. By amending § 40.284 by amending the title thereof, by amending paragraph (b), and by adding a new paragraph (c) to read as follows:

§ 40.284 Flight engineer training.

* * * * *

(b) Prior to serving as a flight crewmember, each flight engineer shall be given sufficient training in flight to become proficient in those duties assigned him by the air carrier. Except for emergency procedures, the flight training may be accomplished during scheduled flight in air transportation under the supervision of a qualified flight engineer.

(c) The air carrier shall give each flight engineer such additional ground and flight training as is necessary to insure qualification with respect to any new equipment, procedures, or techniques. At least once within the preceding 12 months, as a part of the training program, recurrent ground training and a flight check shall be provided to insure the continued proficiency of each flight engineer with respect to procedures, techniques, and information essential to the satisfactory performance of his duties. The check may be given at any time during the month preceding or following the month in which it becomes due. However, if given within the preceding or following month, it has the same effect as if given within the month in which it became due. Except for emergency procedures, such flight check may be accomplished during scheduled flight in air transportation or the entire check may be accomplished in a synthetic trainer in lieu of a check in flight.

49. By redesignating § 40.286 as § 40.285 *"Crewmember emergency training"*, and by adding to redesignated § 40.285 a new paragraph (d) to read as follows:

§ 40.285 Crewmember emergency training.

* * * * *

(d) Recurrent training in the emergency procedures required in paragraph (a) of this section shall be accomplished at intervals not to exceed 12 months. Accomplishment of such training shall be made a part of the individual's record.

50. By redesignating § 40.288 as § 40.286 "Aircraft dispatcher training", and by adding to redesignated § 40.286 a new paragraph (c) to read as follows:

§ 40.286 Aircraft dispatcher training.

* * * * *

(c) The air carrier shall provide such additional training as is necessary to insure that each dispatcher is qualified with respect to new equipment procedures or techniques. At least once within the preceding 12 months, as a part of the training program, recurrent training and checks shall be provided to insure the continued competence of each dispatcher with respect to the procedures, techniques, and information essential to his duties. The check may be given at any time during the month preceding or following the month in which it becomes due. However, if given within the preceding or following month, it has the same effect as if given within the month in which it became due.

51. By deleting §§ 40.289 and 40.290.

52. By amending § 40.300(a) by deleting the words "§ 40.280 or § 40.289, and §§ 40.301 through 40.310" and inserting in lieu thereof the words "§§ 40.280 through 40.286 and 40.301."

53. By amending § 40.302 by amending paragraph (a), by adding a sentence at the end of paragraph (b)(1), and by amending paragraph (b)(2) to read as follows:

§ 40.302 Pilot checks.

(a) *Line check.* An air carrier shall not utilize a pilot as pilot in command until he has satisfactorily passed a line check in one of the types of airplanes to be flown by him. Thereafter, he shall not serve as pilot in command unless each 12 months he successfully completes a similar line check. The line check may be given at any time during the month preceding or following the month in which it becomes due. The effective date of the check, if given within the preceding or following month, shall be the same as if given within the month in which it became due. This check shall be given by a check pilot who is both qualified on the airplane and on the route. It shall consist of at least a scheduled flight over a typical portion of the air carrier's routes to which the pilot is normally assigned and shall be of sufficient duration for the check pilot to determine whether the individual being checked satisfactorily exercises the duties and responsibilities of a pilot in command.

(b) *Proficiency check.*

(1) * * * If performance of any of the proficiency check items specified in subparagraph (2) of this paragraph is unsatisfactory in the judgment of the check pilot he may, at his discretion, give additional training to the pilot during the course of the proficiency check. If the pilot being checked is unable to demonstrate satisfactory performance to the check pilot, he shall not be used in operations under this Part until such time as he shall have demonstrated proficiency.

(2) The pilot proficiency check shall include at least the following:

(i) Equipment examination (oral or written), taxiing, runup, takeoff, climb, climbing turns, steep turns, maneuvers at minimum speeds, approach to stalls, propeller feathering, maneuvers with one or more engine(s) out, rapid descent and pullout, ability to tune radio, orientation, and approach procedures, missed approach and traffic control procedures, crosswind landing, landing under circling approach conditions, takeoffs and landings with engine(s) failures, demonstration of pilot judgment, and emergency procedures.

(ii) The flight maneuvers specified in § 40.282(b)(1), except that the simulated engine failure during takeoff need not be accomplished at speed V_1, nor at actual or simulated maximum authorized weight; and

(iii) Flight maneuvers approved by the Administrator accomplished under simulated instrument conditions utilizing the navigational facilities and letdown procedures normally used by the pilot: *Provided,* That maneuvers other than those associated with approach procedures for which the lowest minimums

are approved may be given in a synthetic trainer which contains the radio equipment and instruments necessary to simulate other navigational and letdown procedures approved for use by the air carrier.

54. By deleting § 40.302–1 of the related Civil Aeronautics Manual material.

55. By amending § 40.307 by inserting between the words "flight" and *"Provided"* the words ", but such flight check shall not be accomplished in scheduled air transportation:"

56. By amending § 40.310(b) by deleting from the first sentence the words "one round trip" and inserting in lieu thereof the words "a one-way qualification trip".

57. By amending § 40.353 by deleting the words "with fuel and oil".

58. By deleting § 40.357.

59. By redesignating § 40.358 as § 40.357, "Flying equipment" and by amending redesignated § 40.357 by amending paragraph (b) to read as follows:

§ 40.357 Flying equipment.

* * * * *

(b) *Flashlights.* Each crewmember shall have readily available for his use on each flight a flashlight in good working order.

60. By redesignating § 40.359 as § 40.358 and by amending the redesignated section by inserting between the words "conditions" and "exist" the following phrase "known to the air carrier".

61. By adding a new § 40.359 to read as follows:

§ 40.359 Operations over approved routes required.

A pilot shall not operate an air carrier airplane in scheduled air transportation over any route or route segment other than as specified in the operations specifications of the air carrier, nor operate other than in accordance with the limitations prescribed therein.

62. By amending § 40.360(c) to read as follows:

§ 40.360 Emergency decisions; pilot in command and aircraft dispatcher.

* * * * *

(c) When emergency authority is exercised by the pilot in command or by the dispatcher, the appropriate air traffic control and dispatch center shall be kept fully informed regarding the progress of the flight. A written report of any deviation shall be submitted by the individual declaring the emergency through the air carrier operations manager to an authorized representative of the Administrator. Such report shall be submitted by a dispatcher within 10 days from the date of the emergency and by a pilot in command within 10 days after his return to his home base.

63. By amending § 40.361 by deleting the last sentence and inserting in lieu thereof a sentence which reads: "Any such information pertaining to irregularities of ground and navigational facilities received by an air carrier shall be reported to the authority directly responsible for the operation of the particular facility involved.

64. By amending § 40.363(b) by deleting subparagraph (2).

65. By amending § 40.363(d) by deleting from the last sentence the words "within 7 days after completion of the trip" and inserting in lieu thereof the words "within 10 days after the pilot's return to his home base".

66. By amending § 40.365(a) by amending the introductory paragraph and subparagraphs (2) and (3) to read as follows:

§ 40.365 Requirements for air carrier equipment interchange.

(a) Prior to conducting any operations pursuant to an interchange agreement, the air carrier shall show that:

(1) * * *

(2) All required crewmembers and dispatchers involved meet the approved training requirements for the airplanes and equipment used in the interchange and are familiar with the communications and dispatching procedures to be used;

(3) All maintenance personnel involved meet the training requirements for the airplanes and equipment, and are familiar with the maintenance procedures applicable to the interchange;

67. By amending § 40.370 by deleting the words "life vest" and "life vests" wherever they appear in that section and inserting in lieu thereof the words "life preserver" and "life preservers", respectively.

68. By adding a new § 40.372 to read as follows:

§ 40.372 Minimum altitudes for use of automatic pilot.

(a) *En route operations.* Except as provided in paragraph (b) of this section an automatic pilot may only be used during en route flight operations, including climb or descent, at an altitude above the terrain not less than twice the maximum altitude loss established for the automatic pilot malfunction in the particular airplane under cruise conditions as specified in the Airplane Flight Manual for the airplane involved, or 500 feet whichever is higher.

(b) *Approaches.* Except as provided in subparagraph (1) of this paragraph, when using an instrument approach facility, an automatic pilot may remain engaged down to an altitude above the terrain not less than twice the maximum altitude loss established for the automatic pilot in the particular airplane under approach conditions as specified in the Airplane Flight Manual for the airplane involved, or not less than 50 feet below the minimum ceiling approved for the facility being used, whichever is higher.

(1) *ILS approaches utilizing an approach coupler*—(i) *Under instrument flight rule weather conditions.* When the reported weather conditions are less than the basic weather conditions specified in § 60.30 of this chapter (Civil Air Regulations), an automatic pilot utilizing an approach coupler may remain engaged for ILS approaches down to an altitude above the terrain not less than 50 feet higher than the maximum altitude loss established for the automatic pilot and approach coupler in the particular airplane under approach conditions as specified in the Airplane Flight Manual for the airplane involved.

(ii) *Under visual flight rule weather conditions.* When reported weather conditions are equal to or better than the basic VFR minimums specified in § 60.30 of this chapter (Civil Air Regulations), an automatic pilot utilizing an approach coupler may remain engaged for ILS approaches down to an altitude above the terrain not less than the maximum altitude loss established for the automatic pilot and approach coupler in the particular airplane under approach conditions as specified in the Airplane Flight Manual for the airplane involved, or 50 feet, whichever is higher.

69. By amending § 40.382 by deleting the words "existing and anticipated" and by inserting in lieu thereof the words "reported and forecast".

70. By amending § 40.390 to read as follows:

§ 40.390 Alternate airport weather minimums.

An airport shall not be specified in the dispatch release as an alternate airport unless the appropriate weather reports or forecasts, or a combination thereof, indicate that the ceilings and visibilities will be at or above the alternate minimums specified in the air carrier's operations specifications for such airport when the flight shall arrive thereat.

71. By amending § 40.391(b) to read as follows:

§ 40.391 Continuance of flight; flight hazards.

* * * * *

(b) If any instrument or item of equipment required pursuant to the regulations in this chapter for the particular operation being conducted becomes inoperative en route, the pilot in command shall comply with the approved procedures specified in the Air Carrier Manual for such occurrences. An authorized representative of the Administrator may approve, for incorporation in the Air Carrier Manual, the minimum equipment list and procedures for continuance of flight beyond a terminal point with equipment referred to in § 40.170(c) inoperative, if he finds that, in the particular circumstances of the case, literal compliance with that requirement is not necessary in the interest of safety.

72. By amending § 40.395 to read as follows:

§ 40.395 Takeoffs from alternate airports and airports not listed in the operations specifications.

(a) A pilot shall not take off an airplane from an airport not listed in the air carrier's operations specifications unless:

(1) Such airport and related facilities are adequate for the operation of the airplane;

(2) In taking off, it is possible to comply with the applicable airplane operation limitations;

(3) The airplane is dispatched in accordance with all dispatching rules applicable to operation from an approved airport; and

(4) The ceiling and visibility at the airport are equal to or better than the following:

(i) *Airports within the United States.* The ceiling and visibility minimums for takeoff prescribed in Part 609 of the Regulations of the Administrator, but in no case less than 300–1. Where such minimums are not prescribed for the airport, the ceiling and visibility shall be 800–2, 900–1½ or 1000–1.

(ii) *Airports outside the United States.* The ceiling and visibility minimums for takeoff prescribed or approved by the government of the country in which the airport is located, but in no case less than 300–1. Where such minimums are not prescribed or approved for the airport, the ceiling and visibility shall be 800–2, 900–1½, or 1000–1.

(b) A pilot shall not take off an airplane from an alternate airport unless the ceiling and visibility at the airport are equal to or better than the minimums prescribed in the air carrier's operations specifications for alternate airports.

73. By amending § 40.397 by inserting between the words "anticipated" and "and" the following words: "an instrument approach and possible missed approach at destination".

74. By adding a new § 40.407 to read as follows:

§ 40.407 Applicability of reported weather minimums.

In the conduct of operations subject to §§ 40.405 and 40.406, the ceiling and visibility values contained in the main body of the latest weather report shall be the controlling criteria for VFR and IFR takeoffs and landings and for instrument approach procedures on all runways of an airport except that when the latest weather report, including an oral report from the control tower, contains a visibility value specified as runway visibility or runway visual range for a particular runway of an airport, such specified value shall be controlling for VFR and IFR landings and takeoffs and straight-in instrument approaches for such runway.

75. By amending § 40.408 by deleting the second proviso to paragraph (b) thereof.

76. By amending § 40.501 to read as follows:

§ 40.501 Crewmember and dispatcher records.

Each air carrier shall maintain current records of every crewmember and aircraft dispatcher. These records shall contain such information concerning the qualifications of each such crewmember and dispatcher as is necessary to show compliance with the appropriate requirements of the regulations of this chapter, e.g., proficiency and route checks, airplane and route qualifications, training, physical examinations, and flight time records. The termination or other action taken in regard to any flight crewmember or aircraft dispatcher released from the employ of the air carrier, or who becomes physically or professionally disqualified, shall be indicated in these records which shall be retained by the air carrier for at least 6 months.

77. By amending § 40.502 by adding at the end of the proviso the following sentence: "A copy of the current list and all changes thereto shall be submitted to the FAA Air Carrier District Office charged with the overall inspection of the air carrier's operations."

78. By amending § 40.507 by deleting the last sentence thereof.

79. By amending § 40.510 to read as follows:

§ 40.510 Alteration and repair reports.

Upon completion of a major alteration or major repair to an airframe, engine, propeller, or appliance, a report thereof shall be promptly prepared by the air carrier. A copy of the major alteration report shall be submitted to the representative of the Administrator assigned to the air carrier and a copy of the report of the major repair shall be made available to him.

80. By amending § 40.512 by deleting the words "by or with pilots en route" and inserting in lieu thereof the words "between the air carrier and its pilots en route."

81. By adding an Appendix to Part 40 to read as follows:

APPENDIX—FIRST-AID KITS

Approved first-aid kits required by § 40.173 shall meet the following specifications and requirements.

(1) Each first-aid kit shall be dust and moisture proof, and contain only materials which meet Federal Specifications GG–K–391A, as revised.

(2) The type of first-aid kit and the contents thereof based upon the capacity of the airplane, is as follows:

(a) No. 1 kit for airplanes of 1 to 5 persons capacity.

CONTENTS

	No.
Adhesive bandage compresses, 1-inch (16 per unit)	1
Antiseptic swabs, 10 mm. (10 per unit)	1
Ammonia inhalants, 6 mm. (10 per unit)	1
2-inch bandage compresses (4 per unit)	1
4-inch bandage compresses (1 per unit)	1
Triangular bandage compressed, 40-inch (1 per unit)	2
Burn compound, ⅛ oz. (5 per unit) or equivalent amount of other burn remedy	1
Ophthalmic ointment, ⅛ oz. (6 per unit)	1

(b) No. 2 kit for airplanes of 6 to 25 persons capacity.[1]

CONTENTS

	No.
Adhesive bandage compresses, 1-inch (16 per unit)	2
Antiseptic swabs, 10 mm. (10 per unit)	2
Ammonia inhalants, 6 mm. (10 per unit)	1
2-inch bandage compresses (4 per unit)	3
4-inch bandage compresses (1 per unit)	2
Triangular bandage compressed, 40-inch (1 per unit)	3
Burn compound, ⅛ oz. (6 per unit) or equivalent amount of other burn remedy	2
Ophthalmic ointment, ⅛ oz. (6 per unit)	1

[1] Kit No. 2 in canvas may also be used on liferafts.

(c) No. 3 kit for airplanes of over 25 persons capacity.

CONTENTS

	No.
Adhesive bandage compresses, 1-inch (16 per unit)	4
Antiseptic swabs, 10 mm. (10 per unit)	4
Ammonia inhalants, 6 mm. (10 per unit)	2
2-inch bandage compresses (4 per unit)	3
4-inch bandage compresses (1 per unit)	3
Triangular bandage compresses, 40-inch (1 per unit)	5
Burn compound, ⅛ oz. (6 per unit) or an equivalent amount of other burn remedy	2
Ophthalmic ointment, ⅛ oz. (6 per unit)	1

These amendments are proposed under the authority of sections 313(a) and 601–610 of the Federal Aviation Act of 1958 (72 Stat. 752 and 755–780; 49 U.S.C. 1354 and 1421–1430).

Issued in Washington, D.C., on June 10, 1963.

G. S. MOORE,
Director,
Flight Standards Service.

[F.R. Doc. 63–6276; Filed, June 13, 1963; 8:51 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 62–EA–79]

FEDERAL AIRWAYS AND ASSOCIATED CONTROL AREAS

Proposed Alteration

Notice is hereby given that the Federal Aviation Agency is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

VOR Federal airway No. 42 east alternate is designated in part from the intersection of Carleton, Mich., 097° and Windsor, Ont., 121° True radials to Cleveland, Ohio, excluding the airspace within Canada. VOR Federal airway No. 103 is designated in part from Akron, Ohio, to Windsor via the intersection of Akron 319° and Windsor 121° True radials, excluding the portion within Canada. VOR Federal airway No. 232 is designated in part from Sandusky, Ohio, to Chardon, Ohio, via the intersection of Sandusky 063° and Chardon 280° radials. VOR Federal airway No. 1671 is designated in part from Akron to Windsor via the intersection of Akron 319° and Windsor 121° True radials, excluding the portion which lies over Canada.

The Federal Aviation Agency is considering the following actions:

1. Realign Victor 42 east alternate and its associated control areas from Windsor via the intersection of Windsor 131° and Strongsville, Ohio, 342° True radials, Strongsville, to the intersection of Strongsville 162° and Akron 289° True radials, excluding the airspace between the main airway, and this alternate, and excluding the portion within Canada.

2. Realign Victor 103 and its associated control areas from Windsor direct to Akron, excluding the portion within Canada.

3. Realign Victor 232 and its associated control areas from Sandusky to Chardon via the intersection of Sandusky 061° and Chardon 281° True radials.

4. Realign Victor 1671 from Windsor direct to Akron, excluding the portion within Canada.

The proposed realignment of Victors 103 and 1671 from Windsor to Akron would improve air navigation by providing a direct airway between these points. The proposed alteration of Victor 42 east alternate would improve air traffic service and flight planning by providing a numbered airway via the alignment of a standard instrument departure route (SID) from Cleveland to the Detroit, Mich., area. The extension of Victor 42 east alternate from Strongsville southeastward to Victor 42 would provide continuity in the airway description. The proposed realignment of Victor 232 would reduce chart clutter by providing a common intersection with Victor 5 and realigned Victor 42 east alternate and Victor 103.

The vertical extent of control areas associated with Victor 42 east alternate, 103 and 232 would remain as designated pending review of the adjacent airspace. Separate actions will be initiated to implement on an area basis Amendment 60–21 to Part 60 of the Civil Air Regulations.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on June 7, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63–6248; Filed, June 13, 1963; 8:46 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 63–SW–35]

CONTROL ZONE, CONTROL AREA EXTENSION AND TRANSITION AREA

Proposed Alteration, Revocation and Designation

Notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The following controlled airspace is presently designated in the Truth or Consequences, N. Mex., terminal area:

1. The Truth or Consequences control zone is designated within a 5-mile radius of Truth or Consequences Municipal Airport, and within 2 miles either side of the Truth or Consequences VOR 013° True radial extending from the 5-mile radius zone to 10 miles north of the VOR.

2. The Truth or Consequences control area extension is designated within 10 miles east and 7 miles west of the Truth or Consequences VOR 013° and 193° True radials extending from 20 miles north to 9 miles south of the VOR, and within 10 miles northeast and 7 miles southwest of the Truth or Consequences VOR 143° True radial extending from the VOR to 23 miles southeast.

The FAA, having completed a comprehensive review of the terminal airspace structure requirements in the Truth or Consequences area as a result of the studies associated with the implementation of CAR Amendment 60–21/60–29, has under consideration the following airspace actions:

1. Alter the Truth or Consequences control zone by redesignating it to comprise that airspace within a 5-mile radius of Truth or Consequences Municipal Airport (latitude 33°14′10″ N., longitude 107°16′20″ W.).

2. Revoke the Truth or Consequences control area extension and designate the Truth or Consequences transition area to comprise that airspace extending upward from 700 feet above the surface within an 8-mile radius of Truth or Consequences Municipal Airport (latitude 33°14′10″ N., longitude 107°16′20″ W.); and that airspace extending upward from 1200 feet above the surface within 10 miles east and 7 miles west of the Truth or Consequences VOR 013° and 193° True radials, extending from 20 miles north to 9 miles south of the VOR, and within 5 miles each side of the Truth or Consequences VOR 143° True radial, extending from the 8-mile radius area to 23 miles southeast of the VOR. The portion of this transition area within the Elephant Butte, N. Mex., Restricted Area, R–5111 (proposed for designation in Airspace Docket 63–WA–35), would be used only after obtaining prior approval from appropriate authority. The floors of the airways that traverse the transition area proposed herein would automatically coincide with the floor of the transition area.

The actions proposed herein would, in part, revoke the control zone extension north of Truth or Consequences. This extension would no longer be required for air traffic control purposes. The portion of the Truth or Consequences transition area, with a floor of 700 feet above the surface, would provide protection for aircraft executing prescribed instrument approach and departure procedures at the Truth or Consequences Airport. The portion of the proposed transition area, with a floor of 1,200 feet above the surface, would provide protection for aircraft while holding at the Truth or Consequences VOR and for the portions of the instrument approach and departure procedures conducted above 1,500 feet above the surface. The portion of existing controlled airspace southeast of Truth or Consequences, beyond the limits of the proposed transition area, would no longer be required for air traffic control purposes. Certain minor revisions to prescribed instrument procedures would accompany the actions proposed herein, but operational complexities would not be increased nor would aircraft performance characteristics or established minimums be adversely affected.

Specific details of the changes to procedures and minimum instrument flight rules altitudes that would be required may be examined by contacting the Chief, Airspace Utilization Branch, Air Traffic Division, Southwest Region, Federal Aviation Agency, P.O. Box 1689, Forth Worth 1, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Southwest Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available

for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on June 7, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63-6247; Filed, June 13, 1963; 8:46 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 63-WA-40]

FEDERAL AIRWAYS

Proposed Alteration

Notice is hereby given that the Federal Aviation Agency (FAA) is considering an amendment to § 71.143 of the Federal Aviation Regulations, the substance of which is stated below.

Intermediate altitude airway V-1730 is designated from Prescott, Ariz., to Russell, Kansas. The latest peak day IFR survey data indicates only one aircraft movement on V-1730 between Winslow, Ariz., and Crownpoint, New Mexico, no aircraft movements between Crownpoint, New Mexico, and Garden City, Kansas, and one aircraft movement between Garden City, Kansas, and Russell, Kansas. This usage does not justify V-1730 as an assignment of airspace as presently aligned.

The FAA proposes to redesignate V-1730 as a 16 mile wide airway from Prescott, Ariz., via Winslow, Ariz.; Farmington, New Mexico; Alamosa, Colo.; Lamar, Colo.; to Russell, Kansas. This would align V-1730 along the preferential route between Kansas City, Mo., and Los Angeles, Calif., and facilitate flight planning between these two locations by reducing the number of airway designations needed for filing such a flight plan.

Additionally, as V-1730 is currently designated as a positive control route segment between Prescott, Ariz., and Russell, Kansas, realignment of the airway, as proposed, would automatically afford positive control route segment protection along the preferential route between Kansas City, Mo., and Los Angeles, Calif.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on June 7, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63-6249; Filed, June 13, 1963; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14615, RM-308; FCC 63-512]

[47 CFR Part 21]

DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Establishment of a Nationwide Two-Way Public Air-Ground Radiotelephone Service

1. In response to a petition filed by American Telephone and Telegraph Company (AT&T), the Commission, on May 4, 1962, issued a Notice of Proposed Rule Making in the above-entitled matter (FCC 62-457; 27 FR 4459) to amend its rules governing the Domestic Public Radio Services to permit establishment on a regular basis of a nationwide two-way public air-ground radiotelephone service in the bands 454.675-455.000 Mc/s and 459.675-460.000 Mc/s. The system proposed by AT&T, and the subject of the rule making, would operate initially with six pairs of frequency modulated communication channels in the 450 Mc/s mobile band with 50 kc/s channel spacing. The plan proposed establishment of ground stations approximately two hundred miles apart and would assign one of the six ground frequencies to each location on a planned geographic basis. The Notice stated that it was not possible to determine the ultimate requirements of the proposed service for frequency spectrum, or to foresee how additional spectrum would be made available if required. "Split channel" operation was pointed to as the only logical solution if additional channels were necessary and further allocation of spectrum were not possible, and, in order to provide for a smoother transition to such operation, the proposed rules anticipated standards of ±5 kc/s deviation and .0002 percent frequency stability on the 50 kc/s channels.

2. On June 22, 1962, the Commission granted petitions by National Mobile Radio System (NMRS) and General Communications Service, Inc., and extended the time for filing reply comments in this proceeding to July 23, 1962. Additionally, the Commission has accepted the comments submitted, with petition to accept late filing, by Industrial Communications Systems, Inc. and the American Telephone and Telegraph Company (AT&T).

3. Comments in this proceeding were filed by the following:

Aeronautical Radio, Inc. (ARINC).
Aircraft Owners and Pilots Association (AOPA).
American Telephone & Telegraph Company (AT&T).
Bendix Radio Division of the Bendix Corporation (Bendix).
Electronics Industries Association (EIA).
Frank Chalfont (Chalfont).
General Communications Service, Inc. (General Communications).
General Motors Corporation (GMC).
G.T.E. Service Corporation (General Telephone).
Hawaiian Telephone Company (Hawaiian).
Industrial Communications Systems, Inc. (Industrial).
Motorola, Inc. (Motorola).
National Business Aircraft Association, Inc. (NBAA).
National Mobile Radio System (NMRS).
United States Independent Telephone Association (USITA).

4. The concept of a nationwide two-way public air-ground telephone service received favorable endorsement, either expressly or by implication, from all parties who filed. However, general concern was evidenced about the limited channel capacity afforded by the system under consideration and the lack of spectrum space available to accommodate future expansion of that system. ARINC, EIA, Bendix and Chalfont expressed opposition to final rule making because the allocated spectrum space was considered inadequate for future growth. There were differences of opinion as to what the rules and standards should be for the proposed service, and whether eligibility for the service should include miscellaneous common carriers as well as landline companies.

5. Varied comments were filed relative to the signaling system requirements which were proposed for ground stations in § 21.907. ARINC's position was that the signaling system should be optional during a developmental period. Chalfont believes the signaling system to be too large, too heavy and too slow. EIA also registered opposition but did not detail the basis for its position, while General Communications, Motorola and NMRS were opposed to all aspects of the proposed signaling standards. No one proposed standards for any other signaling system. Those in apparent harmony with the signaling system, which was specified in AT&T's rule making petition, were AT&T, Bendix, GMC, GTE and USITA. Bendix recommended that the same signaling method and format be retained while increasing speed by reduction of time duration of the signaling code elements. USITA made the obser-

vation that "detailing the signaling system requirements for ground stations in this service, appears to be a practical necessity in an air-ground system because of the wide area of required operational co-ordination".

8. EIA directed its comments at the inadequate traffic capacity proposed for the system, maintaining that "* * * there is nowhere near a present sufficiency of channels to create * * *" an air-ground service. If an air-ground public radiotelephone service does serve a public need, EIA comments, six or twelve channels are insufficient. Noting that the proposed technical standards are beyond the present practical state of the art and that the rulemaking involves a method of signaling and systems technical operation of limited capacity and a spectrum assignment that precludes growth, EIA suggests that further operation on a developmental basis is in order. Motorola agrees in substance and suggests that the 450 Mc/s band is insufficient to accommodate the needs of the service and that a shift to a higher portion of the spectrum may be required. Chalfont comments that the developmental stage of the service has not been completed and that more developmental work is required. Bendix is more emphatic:

> * * * it is our opinion that a large number of channels is absolutely necessary if the proposed service is to be at all adequate in years to come. It is felt that the six channels with 50 kc spacing will not be adequate even at the inception of service, and that the 12 channels with 25 kc spacing is not likely to be adequate for any extended period of time.
>
> * * * * *
>
> * * * we feel that there is a strong risk in exposing the public to an inadequate service, even if the 12 channels were immediately activated. It is felt that efforts should be devoted to find ways to make available additional bandwith and therefore channels, before this service is finally standardized.

6. It is considered significant that the primary matter upon which comments approached unanimity was with regard to the available number of communications channels which the proposed system would provide. The system provides a total of six two-way channels (plus a single signaling channel for ground stations) distributed over the country according to a fixed allocation plan. However, in any one area only a single channel would be available for all aircraft who may wish to communicate with the ground. It was in an effort to overcome this obvious handicap that the Commission modified the proposal of AT&T (filed January 31, 1962) to embrace "split channel" technical standards which would eventually permit doubling the number of available channels. The general tenor of all comments directed at the technical standards thus proposed by the Commission was that they were too restrictive and, under practical conditions, beyond the present state of the art, or would result in prohibitive equipment costs.

7. AT&T is the sole party commenting affirmatively with respect to the adequacy of the proposed service:

> AT&T agrees that the six channels proposed for the air-ground service will probably not be sufficient to meet the ultimate requirements for service. However, the system proposed is in keeping with the Commission's objective to establish a public air-ground mobile telephone system using a minimal number of frequencies. Until such time as it may be possible to make additional channels available, the proposed system can provide a nationwide air-ground service which will meet an immediate and urgent public need.

9. Also in this respect, the comments of ARINC as representatives of the airline industry, one of the major potential users of the proposed service, merit quotation:

> While the airline industry is convinced there is and will continue to be a growing public demand for this service, it is deeply concerned with the obvious inadequacy of the proposed limited service resulting directly from an insufficient frequency allocation. The airline industry is most anxious to see this service developed under conditions which would permit growth and the ultimate realization of an adequate service. This will require multi-channel availability throughout the nation's airways.

In amplification of this, ARINC filed supplemental comments in which it specifically indicates a probable need for a system involving 40 to 60 channel availability.

10. ARINC emphasizes a second point with respect to the proposed system, noting that there has been very little cooperative consideration of the system characteristics, a matter which customarily involves a very thorough program of consultation and co-ordination among users, equipment suppliers, and operating agencies. ARINC states, "There should be latitude for competitive application of individual ingenuity as well as common agreement cooperatively developed among the airborne equipment manufacturers on the minimum requirements for standardization." Since the proposed system was evolved without the desired degree of co-operative consideration, ARINC considers that continued developmental operations are appropriate and that the technical characteristics for the eventual system should not be frozen at this time.

11. The Commission notes that it seems to be the predominant expectation of parties filing in this matter that, as use of this service expands, additional spectrum in the 450 Mc/s region can be made available for the air-ground service. We cannot hold forth this hope. In January 1961, the Commission, through a "freeze" Order, acted to reserve the two bands 454.675–455.000 Mc/s and 459.675–460.000 Mc/s exclusively for the public air-ground radiotelephone service. During the ensuing two years the needs for spectrum in this region by other services have become increasingly demanding and cannot be expected to decrease. The two 325-kilocycle bands presently under consideration represent the maximum frequency space available for the public air-ground radiotelephone service in this portion of the spectrum. An adequate service must, therefore, be developed within these two bands or search must be made for sufficient bandwidth higher in the radiofrequency spectrum.

12. After consideration of all the comments filed herein and all available relevant information, the Commission must conclude that the experimentation and development conducted in the past six years has not produced an adequate air-ground radiotelephone system for use by the general public, and that the proposed rules should not be adopted. The system has proved itself technically feasible and is now in operation over the Chicago to New York and Washington routes. Also, there is a demand for the extension of the system to other areas. Nevertheless, in view of other factors which cannot be ignored, it appears that the establishment on a regular basis of the proposed public air-ground radiotelephone service would be contrary to the public interest.

13. Although the proposed system provides a six-channel facility, it affords essentially only single-channel capability for all aircraft in any one area, so that the practical effect is that only one person at a time may use the service in any one area. The two bands reserved for the air-ground system represent the maximum frequency space available in that portion of the spectrum, and the proposed standards for future doubling of the number of channels have been generally rejected as too restrictive, beyond the present state of the art, or too expensive to meet. Thus, it is clear that the proposed system is inadequate to satisfy the expected demands of any substantial number of aircraft users and is incapable of future expansion. Under the circumstances, it will provide a satisfactory service to a limited number of users, and, in view of the limitation of one ground station to an area, will preclude competition between common carriers. Further, we must compare the efficiency of frequency utilization of this system which, in any area, involves a total of 650 kilocycles to support a single two-way conversation with the crowded conditions that exist in other mobile services. In consideration of the insatiable demands for frequency space, the Commission cannot find that it would serve the public interest, convenience and necessity to regularize a new service which would make such a relatively inefficient use of a portion of the spectrum for the benefit of so few.

14. Accordingly, we would terminate further development of a domestic public air-ground radiotelephone system, if it were not for the hope that such a system could be evolved which would provide more channel capacity than presently proposed. Relying upon the ingenuity of the engineering profession and the impetus of private enterprise, we believe that a system can be developed which would permit some expansion and also permit some element of competition among common carriers. In short, we are confident that a more adequate system can be developed, either within the present allocations at 450 Mc/s, or on frequencies higher in the spectrum.

15. We have no certain guidelines for evaluating the probable future proportions of this service. It seems probable, however, that eventually a wide band, multiple channel system will be required in order to meet public needs for air-

ground telephone service. Such a system appears most feasible at frequencies higher in the spectrum. It seems that now is a good time to commence the development of such a system. Indeed, if an adequate system cannot be developed within the present allocations, it is imperative that immediate consideration be given to the high frequencies.

16. While we have decided that we should not at this time establish, on a regular basis, a public air-ground radiotelephone service in the manner proposed, we recognize that a public air-ground facility exists at present under developmental authorization which provides a limited convenience to the public and we consider no substantial public interest would be served by its immediate discontinuance. Therefore, we will consider applications for renewal of the existing developmental authorizations for a period of one year beyond their present expiration date of September 10, 1963.

17. During this period we shall be receptive to proposals for the development of new systems of air-ground communications for public use which systems appear to give fair promise of providing:

a. Nationwide service,

b. Simultaneous access to more channels in any area,

c. Possibilities for future expansion, either within the frequency allocation at 450 Mc/s, or by planned provisions for operation at an allocation higher in the spectrum,

d. Possibilities for competitive service, and

e. A capability for early and successful development.

We cannot at this time set forth what we shall consider to be the number of channels which will be the minimum acceptable. Nor can we describe what degree of expansion capability we must have nor what compromises with other criteria will be acceptable. However, the point should be clear that we are looking for a more adequate system (in the light of the above factors) and that which we have immediately before us.

18. Because of the demands for spectrum space by existing services, we cannot reserve the present air-ground allocations indefinitely, awaiting the development of a new system. Thus, we consider that the period of time set forth above (one year from the present date of expiration of the existing developmental authorizations, or until approximately September 10, 1964) is sufficient to permit interested organizations to study the problem and to plan a suitable developmental program. We hope that several proposals will be formulated so that they can be considered competitively. If, at the end of this period, no acceptable developmental program has been initiated or proposed, we intend to terminate the existing developmental authorizations and will consider the advisability of deleting the 450 Mc/s air-ground reservation. However, if in this period one or more acceptable developmental efforts have been proposed or authorized, we will consider continuing the present authorizations until the inception of a new service, in order to provide a degree of continuity for the existing facility. During the period of the extended developmental operation of the existing system, we consider it appropriate to disapprove any further expansion of it, limiting it to the present ten ground stations and the presently authorized mobile aircraft units.

19. The above course of action does not preclude a developmental program aimed at modifying the existing system to meet in an acceptable manner the criteria set forth in paragraph 17 above. Nor does it preclude programs aimed at developing a system which makes use of equipment and operational procedures which permit compatible operation on 450 Mc/s and a possible allocation higher in the spectrum. We will also consider proposals for development of systems designed exclusively for operation on a possible allocation higher in the spectrum. Our purpose is to encourage the development of a more viable air-ground communications system for public use.

20. Specific rules and regulations for the public air-ground service were set forth in our Notice of Proposed Rule Making. Because we are declining to adopt these regulations at this time, comments concerning them are rendered moot and will not be treated herein. Additionally, the instant rule making is not a rate proceeding and, therefore, the comments concerning tariff charges which were filed by Industrial and NMRS are not germane and must be disregarded.

21. In accordance with the considerations set forth above: *It is ordered,* That the amendments to Part 21 of the Commission's rules as set forth in our notice of proposed rule making in this docket are not adopted: *It is further ordered,* That proceedings in this docket are terminated.

Adopted: June 5, 1963.

Released: June 10, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6293; Filed, June 13, 1963; 8:54 a.m.]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 17,158]

FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Proposed Amendment Relating to Drive-In Facilities

JUNE 10, 1963.

Resolved that, pursuant to Part 508 of the General Regulations of the Federal Home Loan Bank Board (12 CFR Part 508) and § 542.1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 542.1) it is hereby proposed that Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) be amended by an amendment, the substance of which is as follows:

Amend Part 545 by adding after § 545.14 a new section as follows:

§ 545.14–1 Drive-in facility.

A Federal association may, without prior approval of the Board, establish a drive-in or outside pedestrian facility which is on the same premises as the home office building or a branch office building of such association. A Federal association may not establish any other drive-in or outside pedestrian facility without the prior written approval of the Board. The functions of any such facility shall be limited to the opening of savings accounts, receiving payments on such accounts, paying withdrawals on such accounts, and accepting loan payments. Any application by a Federal association for Board approval of a driven-in or outside pedestrian facility shall state the location of the proposed facility in relation to the home office building or a branch office building, the need of such association for such facility, the personnel and office facilities to be provided, and the estimated annual volume of business and the expenses of such facility.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that all interested persons are hereby given the opportunity to submit written data, views, or arguments on the following subjects and issues: (1) Whether said proposed amendment should be adopted as proposed; (2) whether said proposed amendment should be modified and adopted as modified; (3) whether said proposed amendment should be rejected. All such written data, views, or arguments must be received through the mail or otherwise at the office of the Secretary, Federal Home Loan Bank Board, Federal Home Loan Bank Board Building, 101 Indiana Avenue NW., Washington 25, D.C., not later than July 15, 1963, to be entitled to be considered, but any received later may be considered in the discretion of the Federal Home Loan Bank Board.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 63-6277; Filed, June 13, 1963; 8:51 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular; Public Debt Series—No. 12-63]

4 PERCENT TREASURY BONDS OF 1970

Offering of Bonds

JUNE 7, 1963.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for bonds of the United States, designated 4 percent Treasury Bonds of 1970. The amount of the offering under this circular is $1,250,000,000, or thereabouts. In addition to the amount offered for public subscription, the Secretary of the Treasury reserves the right to allot up to $50,000,000 of these bonds to Government Investment Accounts. The books will be open only on June 11, 1963, for the receipt of subscriptions for this issue.

II. *Description of bonds.* 1. The bonds will be dated June 20, 1963, and will bear interest from that date at the rate of 4 percent per annum, payable on a semi-annual basis on February 15 and August 15, 1964, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 1970, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington 25, D.C. Only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit subscriptions for account of customers provided the names of the customers are set forth in such subscriptions. Others than commercial banks will not be permitted to enter subscriptions except for their own account. Subscriptions from commercial banks for their own account will be restricted in each case to an amount not exceeding 10 percent of the combined amount of time and savings deposits, including time certificates of deposit, or 25 percent of the combined capital, surplus and undivided profits of the subscribing bank, whichever is greater. Subscriptions will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon. Subscriptions from all others must be accompanied by payment of 10 percent of the amount of bonds applied for, not subject to withdrawal until after allotment. Following allotment, any portion of the 10 percent payment in excess of 10 percent of the amount of bonds allotted may be released upon the request of the subscribers.

2. All subscribers requesting registered bonds will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or an employer identification number.

3. All subscribers are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any bonds of this issue, until after midnight June 11, 1963.

4. Commercial banks in submitting subscriptions will be required to certify that they have no beneficial interest in any of the subscriptions they enter for the account of their customers, and that their customers have no beneficial interest in the banks' subscriptions for their own account.

5. The Secretary of the Treasury reserves the right to reject or reduce any subscription, to allot less than the amount of bonds applied for, and to make different percentage allotments to various classes of subscribers; and any action he may take in these respects shall be final. Subject to these reservations, subscriptions for amounts up to and including $100,000 will be allotted in full, and subscriptions for amounts over $100,000 will be allotted on a percentage basis, but not less than $100,000 on any one subscription. The basis of the allotment will be publicly announced, and allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment at par and accrued interest, if any, for bonds allotted hereunder must be made or completed on or before June 20, 1963, or on later allotment. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number, as required by Paragraph 2 of section III hereof, has not been furnished; provided, however, if a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identifying number, interim receipts and in this case payment will be deemed to have been completed. In every case where payment is not so completed, the payment with application up to 10 percent of the amount of bonds allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit in its Treasury Tax and Loan Account for bonds allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve Bank of its District.

V. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 63-6278; Filed, June 13, 1963; 8:52 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ENRICHED FLOUR DEVIATING FROM IDENTITY STANDARD

Notice of Issuance of Temporary Permit to Cover Market Testing

Pursuant to § 10.5(j) of Title 21 of the Code of Federal Regulations concerning temporary permits to facilitate market testing of foods varying from the requirements of standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to General Mills, Inc., 9200 Wayzata Boulevard, Minneapolis 26, Minnesota, to cover interstate marketing tests of enriched flour deviating from the requirements of the standard of identity for that food (21 CFR 15.10). The product has been subjected to an "instantizing" process which results in its no longer meeting the granulation specification of the standard. The product is to be labeled "instantized enriched flour."

This permit expires May 29, 1964.

Dated: June 10, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-6261; Filed, June 13, 1963; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

CASA GRANDE LIVESTOCK AUCTION CO. ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
ARIZONA	
Casa Grande Livestock Auction Co., Casa Grande, Oct. 15, 1957.	Casa Grande Livestock Auction Company, Inc., Feb. 8, 1963.
CALIFORNIA	
Escondido Livestock Auction Yard, Escondido, Oct. 28, 1959.	Escondido Livestock Auction, Jan. 1, 1963.
FLORIDA	
Monticello Stockyards, Inc., Monticello, Mar. 15, 1960.	Monticello Livestock Market, Inc., Aug. 24, 1962.
GEORGIA	
Farmer Livestock Market, Douglas, May 15, 1959	Farmers Livestock Market, Jan. 23, 1963.
Milan Livestock Market, Milan, Aug. 27, 1959	Milan Livestock Barn, May 24, 1963.
LOUISIANA	
Oakdale Livestock Barn, Oakdale, Dec. 27, 1962	Oakdale Livestock Sale Barn, Feb. 7, 1963.
Town and Country Auctions, Ville Platte, Mar. 12, 1963.	Town and Country Auctions, Inc., Mar. 12, 1963.
MICHIGAN	
Breckenridge Auction & Sales Co., Breckenridge, Apr. 24, 1959.	Breckenridge Auction & Sales Company, Mar. 14, 1963.
MISSISSIPPI	
Case Stockyards, Meadville, Feb. 17, 1959	Franklin County Stockyards, Mar. 1, 1963.
MISSOURI	
Milan Livestock Market, Milan, July 25, 1957	Milan Livestock Auction, Mar. 12, 1963
NEBRASKA	
Beatrice Sales Pavilion Stockyards, Beatrice, Aug. 15, 1955.	Beatrice Sales Pavilion, Mar. 3, 1962.
NEW YORK	
Bartholomew's Commission Sales, Middleburg, Sept. 14, 1960.	Bartholomew Commission Sales, Jan. 1, 1963.
NORTH CAROLINA	
Gus Z. Lancaster's Stockyards, Rocky Mount, Apr. 10, 1959.	Gus Z. Lancaster Stock Yards, Inc., Jan. 1, 1963.
TEXAS	
Capitol Livestock Auction Company, Austin, Apr. 2, 1957.	Capitol Livestock Commission, Inc., Nov. 5, 1962.
J. C. (Po-Boy) Morriss Commission Co., Douglassville, Nov. 23, 1956.	John H. Mills Commission Company, Jan. 1, 1963.

Done at Washington, D.C., this 11th day of June 1963.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 63-6284; Filed, June 13, 1963; 8:53 a.m.]

TUSCALOOSA STOCK YARD ET AL.

Proposed Posting of Stockyards

The Chief of the Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Tuscaloosa Stock Yard, Tuscaloosa, Alabama.
Farmers and Ranchers Auction Barn, Batesville, Arkansas.
Farmers Livestock Sale, Inc., Coatsburg, Illinois.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within 15 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of June 1963.

H. L. JONES,
Chief, Rates and Registrations Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 63-6285; Filed, June 13, 1963; 8:53 a.m.]

Office of the Secretary

CALIFORNIA

Extension of Period for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of Public Law 87-128 (7 U.S.C. 1961) it has been determined that in the hereinafter named counties in the State of California, recent natural disasters, which have occurred since the designation of said counties (26 F.R. 5079, 5433, 6397, and 6609) and the extension of said designation (27 F.R. 5775, 6240), have resulted in a continuing need in those counties for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

CALIFORNIA

Butte.	Placer.
El Dorado.	Sutter.
Fresno.	Tulare.
Imperial.	Yuba.
Madera.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June

30, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 10th day of June 1963.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 63-6258; Filed, June 13, 1963; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

JUNE 7, 1963.

1. Plat of survey of the following described lands will be officially filed in the Land Office, Sacramento, California, effective at 10:00 a.m., on July 12, 1963:

MOUNT DIABLO MERIDIAN

T. 11 N., R. 21 E.,
Sec. 31, Lots 7 and 8, SW¼SW¼.

The areas described total approximately 82.82 acres of public lands.

2. This supplemental plat shows a lotting for the unplatted portion of section 31 lying south of the Von Schmidt line.

3. The lands are located in Alpine County, California, approximately 7 miles northwest of Holbrook Junction, Nevada, immediately west of the California-Nevada State Line. The topography is rough and mountainous. Vegetation consists of sagebrush and scattered pinion pine. The elevation varies from 5720 to 6120 feet. The lands lie on a ridge which is oriented in a northeast-southwest direction. Access is by foot and/or jeep trail along Bryant Creek. The area is covered by snow in the winter.

4. The lands are part of the Toiyabe National Forest. At 10:00 a.m. on July 12, 1963, they shall be open to such forms of disposition as may by law be made of national forest lands.

5. The lands have been open to applications and offers under the mineral leasing laws and to locations under the mining laws.

6. Inquiries concerning this land shall be addressed to the Manager, Land Office, Bureau of Land Management, United States Department of the Interior, Room 4201, U.S. Courthouse and Federal Building, 650 Capitol Avenue, Sacramento 14, California.

WALTER E. BECK,
Manager, Land Office, Sacramento.

[F.R. Doc. 63-6244; Filed, June 13, 1963; 8:46 a.m.]

National Park Service

[Order No. 1]

KINGS MOUNTAIN NATIONAL MILITARY PARK; ADMINISTRATIVE ASSISTANT

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment or Services

1. *Administrative Assistant.* The Administrative Assistant may execute and approve purchase orders not in excess of $2,500 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

(National Park Service Order No. 14 (19 F.R. 8824); 39 Stat. 535; 16 U.S.C., sec. 2; Southeast Region Order No. 3 (21 F.R. 1493))

Dated: May 28, 1963.

BENJAMIN F. MOOMAW,
Superintendent, Kings Mountain National Military Park.

[F.R. Doc. 63-6245; Filed, June 13, 1963; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

LAWRENCE H. ZAHN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER, during the past six months:

A. Deletions: no change.
B. Additions: no change.

This statement is made as of June 3, 1963.

LAWRENCE H. ZAHN

JUNE 3, 1963.

[F.R. Doc. 63-6274; Filed, June 13, 1963; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-32]

AEROJET-GENERAL NUCLEONICS

Notice of Issuance of Amendment to Facility License

Please take notice that the Atomic Energy Commission has issued Amendment No. 9, as set forth below, to Facility License No. R-10. The license authorizes Aerojet-General Nucleonics to operate its nuclear reactor, Model AGN-201, Serial No. 103, located at the licensee's site in San Ramon, California. The amendment authorizes Aerojet-General Nucleonics to modify the existing safety system circuitry of its Model AGN-201, Serial 103 reactor in the manner described in the application for license amendment dated March 29, 1963, and to operate the reactor in accordance with the procedures and subject to the limitations set forth in License No. R-10, as amended. The amendment also states that Aerojet-General Nucleonics shall file with the Atomic Energy Commission a report on the operation of the safety system after it has been tested in the reactor.

The Commission has found that:

1. Operation of the reactor in accordance with the license, as amended, will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

2. The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

3. Prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor in accordance with the license, as amended, does not involve consideration of safety factors significantly different from those previously evaluated.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's Regulation (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) a related hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the application for license amendment dated March 29, 1963, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the hazards analysis may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 6th day of June 1963.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R-10; Amdt. No. 9]

Amendment to Facility License

License No. R-10, as amended, which authorizes Aerojet-General Nucleonics to operate a nuclear reactor Model AGN-201, Serial

No. 103, located at its site at San Ramon, California, is hereby further amended as follows:

1. Aerojet-General Nucleonics is authorized to modify the existing safety system circuitry of its Model AGN-201, Serial No. 103, reactor in the manner described in the application for license amendment dated March 29, 1963, and to operate the reactor in accordance with the procedures and subject to the limitations set forth in License No. R-10, as amended.

2. Aerojet-General Nucleonics shall file with the Atomic Energy Commission a report on the operation of the safety system after it has been tested in the reactor.

This amendment is effective as of the date of issuance.

Date of issuance: June 6, 1963.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63-6272; Filed, June 13, 1963; 8:51 a.m.]

[Docket No. 50-141]

BOARD OF TRUSTEES OF LELAND STANFORD JUNIOR UNIVERSITY

Notice of Issuance of Amendment to Utilization Facility License

Please take notice that the Atomic Energy Commission has issued Amendment No. 5, set forth below, to Facility License No. R-60. The license authorizes The Board of Trustees of the Leland Stanford Junior University to operate the pool-type nuclear reactor located on the University's campus near Palo Alto, California. The amendment authorizes the licensee to perform experiments involving the irradiation of uranium-235, uranium-233 and thorium-232 in accordance with the limitations and restrictions contained in Stanford University's application for license amendment dated April 18, 1963 and supplement thereto dated May 15, 1963.

The Commission has found that:

(1) Operation of the reactor, including conduct of the additional activities authorized by this amendment, in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

(2) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(3) Prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor, including conduct of the additional activities authorized by this amendment, in accordance with the license, as amended, will not present any substantial change in the hazards to the health and safety of the public from those considered and evaluated in connection with the previously approved operation.

Within fifteen days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment see (1) the hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated April 18, 1963 and supplement thereto dated May 15, 1963, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 6th day of June 1963.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R-60, Amdt. No. 5]

AMENDMENT TO UTILIZATION FACILITY LICENSE

Facility License No. R-60, as amended, which authorizes The Board of Trustees of the Leland Stanford Junior University to operate the pool-type nuclear reactor located on the University's campus near Palo Alto, California, is further amended in the following respect:

1. Section 1.c. of Amendment No. 4 to License No. R-60 is amended to read as follows:

"1.c. The licensee shall perform experiments involving the irradiation of uranium-235, uranium-238 and thorium-232 in accordance with the limitations and restrictions contained in Stanford University's letters to the Commission dated April 18 and May 15, 1963."

This amendment is effective as of the date of issuance.

Date of issuance: June 6, 1963.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63-6273; Filed, June 13, 1963; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 14437]

INVESTIGATION OF TARIFF AND RATE ACTIVITIES AND PRACTICES ON NORTH ATLANTIC ROUTES

Notice of Cancellation of Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled matter now assigned to be held before Examiner William F. Cusick on June 17, 1963, in New York City, New York is canceled.

Dated at Washington, D.C., June 11, 1963.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 63-6282; Filed, June 13, 1963; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 14994, 14995; FCC 63R-282]

PONCE BROADCASTING CORP. AND ABACOA RADIO CORP. (WMIA)

Memorandum Opinion and Order Amending Issues

In re applications of Ponce Broadcasting Corporation, Cayey, Puerto Rico, Docket No. 14994, File No. BP-14737; Abacoa Radio Corporation (WMIA), Arecibo, Puerto Rico, Docket No. 14995; File No. BP-15292; for construction permits.

1. The petitioner, Abacoa Radio Corporation requests that the Review Board enlarge the issues in this proceeding to determine whether a grant of the application of Ponce Broadcasting Corporation would be in contravention of §§ 3.35 (a) and 3.35(b) of the Commission's rules.[1]

2. This proceeding involves an application filed on March 14, 1961 by Ponce Broadcasting Corporation (Ponce) for a construction permit for a new standard broadcast station in Cayey, Puerto Rico. On January 2, 1963, Ponce filed an amendment to its application which specified a new transmitter and studio site. The Commission by Memorandum Opinion and Order (FCC 63-235), released March 11, 1963, designated this application for hearing with that of Abacoa Radio Corporation (Abacoa) which requested an increase in daytime power and installation of a new transmitter for Station WMIA in Arecibo, Puerto Rico. The issues designated in this proceeding involve areas, populations and interference; §§ 3.35(a) and 3.35(b) of the rules; and a 307(b) determination.

3. Abacoa requests issues concerning possible non-compliance by Ponce with the provisions of §§ 3.35(a) and 3.35(b) of the rules.[2] In support of this request, Abacoa submits an engineering affidavit alleging that Ponce presently is the licensee of two Puerto Rican standard broadcast stations, WLEO, Ponce, and WKFE, Yauco. The affidavit shows that there is an overlap of the 0.5 mv/m contour of Ponce's proposed operation at

---

[1] The Review Board has before it a petition to enlarge issues filed on March 29, 1963, by Abacoa Radio Corporation and pleadings properly and timely filed in response thereto.

[2] In its initial petition Abacoa requested the 3.35(b) issue against itself. In a subsequent reply it indicated that this was a typographical error.

Cayey with that of Station WLEO, but that there is no overlap of the 2 mv/m contours. The 0.5 mv/m overlap is alleged to represent 26.4 percent of the area covered by Cayey's proposed 0.5 mv/m contour and 30.6 percent of the area covered by WLEO's 0.5 mv/m contour.[3] Abacoa also claims that a grant of Ponce's application would result in Ponce's ownership of three stations which would cover a substantial portion of the area of Puerto Rico. Abacoa claims that the pertinent facts to determine whether § 3.35 will be violated can be developed only through an evidentiary hearing.

4. While the Broadcast Bureau supports Abacoa's petition, Ponce opposes it. In its opposition, Ponce claims that Abacoa's engineering information was based on a transmitter site specified in Ponce's original application. Ponce points out that it subsequently amended its application to specify a new transmitter site, and that this new transmitter site results in substantially less overlap of the 0.5 mv/m contours of WLEO and Ponce's proposed Cayey operation. In addition Ponce points out that at least 10 other standard broadcast stations provide service to the area of the 0.5 mv/m overlap, which occurs largely in the mountainous section of Puerto Rico. Ponce further contends that the Commission has consistently held that contravention of § 3.35 does not occur when none of the stations involved would provide primary service to the cities in which the others are located and when all of such cities are separate and distinct communities. Ponce points out that in the instant case neither station would provide primary service to the city in which the other is located and each city is unquestionably a separate and distinct community. In relation to the 3.35(b) issue Ponce asserts that its three stations will cover less than 50 percent of Puerto Rico and presents evidence of the separateness of the stations.

5. Even considering Ponce's own engineering information, there is evidence of considerable overlap between WLEO and the proposed Cayey operation. The engineering affidavit submitted with Ponce's opposition depicts 0.5 mv/m overlap as representing 22.4 percent of the area covered by WLEO's 0.5 mv/m contour and 20.3 percent of the area covered by Cayey's proposed 0.5 mv/m contour. In addition, Ponce's affidavit indicates that in the event of a grant its three stations will provide service to a substantial part of the Island of Puerto Rico. In view of the above, it appears appropriate to explore the overlap and concentration of control questions raised by Abacoa's petition in an evidentiary hearing. See Sheffield Broadcasting Co., 21 RR 514j (1962); Olney Broadcasting Co., 23 RR 1027 (1962); and WNOW, Inc., 24 RR 787 (1962).

[3] Abacoa also points out that there is 0.5 mv/m overlap between WLEO and WKFE which represents 17.6 percent of area covered by WLEO's 0.5 mv/m contour and 34.0 percent of the area covered by WKFE's 0.5 mv/m contour.

Accordingly, it is ordered, This 6th day of June 1963, that the petition to enlarge issues, filed March 29, 1963 by Abacoa Radio Corporation is granted; and that the issues herein are enlarged as follows: "To determine whether a grant of the application of Ponce Broadcasting Corporation would be consistent with § 3.35 of the Commission's rules."

Released: June 10, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6294; Filed, June 13, 1963; 8:54 a.m.]

[Docket No. 15097]

WALTER W. OLDRING

Order to Show Cause

In the matter of Walter W. Oldring, Jacksonville, Florida, Docket No. 15097; order to show cause why there should not be revoked the license for Radio Station 7Q1471 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee at his address of record as follows: Letter dated November 27, 1962, alleging violation of section 310(b) of the Communications Act of 1934, as amended.

It further appearing, that said licensee did not reply to such communication or to a follow-up letter dated March 14, 1963, also mailed to the licensee at his address of record; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules:

It is ordered, This 10th day of June 1963, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and § 0.291(b)(8) of Part 0 of the Commission's rules, that the said licensee show cause why the license for the above-captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order;

And it is further ordered, That the Acting Secretary send a copy of this Order by Certified Mail—Return Receipt Requested to the said licensee at his last known address of Route 6, Box 873, Jacksonville 17, Florida.

Released: June 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6295; Filed, June 13, 1963; 8:54 a.m.]

[Docket No. 15099]

JAMES R. CROWDER

Order to Show Cause

In the matter of James R. Crowder, Louisville, Kentucky, Docket No. 15099; order to show cause why there should not be revoked the license for Radio Station KHA-1546 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to section 308(b) of the Communications Act of 1934, as amended, the above-named licensee was requested to furnish information concerning the subject radio station in communications dated January 16, 1963, and March 20, 1963, and sent to the licensee's address of record, but no response thereto has been received; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated section 308(b) of the Communications Act of 1934, as amended, and § 1.76 of the Commission's rules:

It is ordered, This 10th day of June 1963, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and § 0.291(b)(8) of Part 0 of the Commission's rules, that said licensee show cause why the license for the above-captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order:

And it is further ordered, That the Acting Secretary send a copy of this Order by Certified Mail—Return Receipt Requested to the said licensee at the address of record at 627 East Brandeis Street, Louisville, Kentucky.

Released: June 11, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6296; Filed, June 13, 1963; 8:54 a.m.]

[Docket No. 14971; FCC 63M-668]

RHINELANDER TELEVISION CABLE CORP.

Order Continuing Hearing

In re application of Rhinelander Television Cable Corporation, Rhinelander, Wisconsin, Docket No. 14971, File No. BP-14648; for construction permit.

The Hearing Examiner having under consideration a pleading filed June 6, 1963, on behalf of the above-entitled applicant requesting a week's extension in the procedural steps in this proceeding; and

It appearing that the reason for the requested extension is the fact that counsel has ben out of town and has been unable to complete the exhibits for ex-

change and be prepared for hearing as presently scheduled; and

It further appearing that all parties concur in the request for extension of time and to a waiver of the four-day provisions of the Commission's Rules in order to permit immediate consideration thereof, and good cause for the requested extension having been shown:

It is ordered, This the 7th day of June 1963, that the pleading filed June 6, 1963 is granted and the date for exchange of exhibits is continued from June 7 to June 14, 1963, and the date for hearing is continued from June 18 to June 25, 1963.

Released: June 10, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6297; Filed, June 13, 1963; 8:54 a.m.]

[Docket No. 14963; FCC 63M-665]

ALBERT S. TEDESCO AND BROWARD COUNTY BROADCASTING

Order Continuing Hearing

In re application of Albert S. Tedesco d/b as Broward County Broadcasting, Radio Station WIXX, Oakland Park, Florida, Docket No. 14963, File No. BL-9740; for station license.

The Hearing Examiner having under consideration a letter dated June 4, 1963, requesting a continuance of a prehearing conference;

It appearing, that a conference is now scheduled for June 11, 1963, but pleadings are pending which may result in eliminating the issues in this proceeding and that a conference at this time would be fruitless:

It is ordered, This 10th day of June 1963, that the conference scheduled for June 11 is continued to September 3, 1963.

Released: June 10, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6298; Filed, June 13, 1963; 8:54 a.m.]

FEDERAL MARITIME COMMISSION

[No. 1105 (Sub. 1)]

UNITED STATES/PERSIAN GULF TRADE; RATE AGREEMENT

Hearing on Protest of Approval and Notice of Consolidation

Agreement No. 8900 is a proposed rate agreement in the trade from U.S. Atlantic and Gulf ports to ports in the Persian Gulf and adjacent waters between Concordia Line, "Hansa" Lines, Hellenic Lines, Ltd., Nedlloyd Line, Kulukundis Lines, Ltd. and Kulukundis Maritime Industries, Inc. which has been filed for approval under section 15, Shipping Act, 1916. The agreement provides for discussion and agreement on rates and related tariff matters subject to the parties' right of independent action.

The Persian Gulf Outward Freight Conference, now operating pursuant to approved Agreement No. 7700 in the same trade, has protested approval of Agreement No. 8900 on the following grounds.

1. The existence of a competing rate-making group in the same trade would destroy rate stability and subvert the existing Conference.

2. Approval of this agreement would undermine the entire Conference system since such approval would give notice that non-Conference lines need not join an existing Conference but may establish their own competitive organization.

3. Agreement 8900, if approved, would operate to the detriment of United States commerce and be contrary to the public interest.

The Commission has considered the protest of the Persian Gulf Outward Freight Conference and has determined that the statements contained therein raise serious issues of fact and law which warrant a full hearing.

By order dated April 23, 1963, the Commission instituted an investigation in the matter of Agreement No. 7700-6, a modification of the Persian Gulf Outward Freight Conference agreement, which was protested by Hellenic Lines, Ltd., a party to Agreement 8900. The respective protests of Hellenic Lines and the Conference have presented the Commission with a number of disputed issues of fact and law which should be heard together.

Therefore, it is ordered, That a proceeding into the matter of approval of Agreement 8900 is hereby instituted pursuant to sections 15 and 22 of the Shipping Act, 1916, to determine whether Agreement 8900 should be approved, disapproved or modified.

It is further ordered, That the parties to Agreement 8900, as shown in Appendix A attached hereto are hereby made respondents in this proceeding.

It is further ordered, That action with respect to Agreement 8900 be held in abeyance pending the Commission's decision and order in this proceeding.

It is further ordered, That this proceeding be consolidated for hearing and decision with the Commission's proceeding in Docket No. 1105, Agreement 7700-6—Persian Gulf Outward Freight Conference.

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and that a copy of such order be served upon respondents and upon protestant Persian Gulf Outward Freight Conference and upon all parties of record in Docket No. 1105.

By the Commission, June 4, 1963.

THOMAS LISI,
Secretary.

Concordia Line, % Boise-Griffin Steamship Co., Inc., Agent, 90 Broad Street, New York 4, N.Y.

Deutsche Dampschifffahrts-Gesellschaft "Hansa", % F. W. Hartmann & Co., Inc., 120 Wall Street, New York 5, N.Y.

Hellenic Lines, Ltd., % P. G. Callimanopulos, General Manager, 39 Broadway, New York 6, N.Y.

Nedlloyd Line, % Java Pacific Line, Inc., General Agents, 25 Broadway, New York 4, N.Y.

Kulukundis Lines, Ltd., % Star Line Agency, Inc., as Agents, 80 Broad Street, New York 4, N.Y.

Kulukundis Maritime Industries, Inc., % Star Line Agency, Inc., as Agents, 80 Broad Street, New York 4, N.Y.

[F.R. Doc. 63-6281; Filed, June 13, 1963; 8:52 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7038]

SOUTHWESTERN PUBLIC SERVICE CO.

Order Fixing Date of Hearing; Correction

JUNE 7, 1963.

In the order fixing date of hearing, issued May 17, 1963 and published in the FEDERAL REGISTER on May 24, 1963 (F.R. Doc. 63-5533; 28 F.R. 5222-5223); Ordering paragraph (B) should be corrected to read as follows:

(B) The following schedule for the service of testimony, motions to strike prepared testimony, and answers to motions to strike prepared testimony, is ordered.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-6250; Filed, June 13, 1963; 8:47 a.m.]

[Docket No. E-7104]

POTOMAC EDISON CO.

Order Instituting Investigation and Providing for Hearing

JUNE 7, 1963.

Data currently available to this Commission indicate the need for a formal investigation concerning the lawfulness of Electric Rate Schedule Tariff "WS", filed pursuant to section 205 of the Federal Power Act by Potomac Edison Company (Potomac Edison), Hagerstown, Maryland.

Potomac Edison's "WS" Rate Schedule is a tariff schedule for wholesale service and is available throughout the entire territory served by Potomac Edison to customers who purchase electric energy for resale at voltages of 2,400 and above. At present, two municipalities (Thurmont, Maryland, and Williamsport, Maryland) and three private utilities, including two subsidiaries of Potomac Edison (Potomac Light and Power Company and South Penn Power Company) and one affiliate (Monongahela Power Company), receive service under the "WS" tariff schedule.

The tariff has a demand and energy block type of rate. Charges for demand vary from $3.20 per kw per month down to $2.15 per kw per month and the energy charges vary from 8.4 mills per kwh down to 4.4 mills per kwh. An additional charge for KVAR required by the customer is also listed in the schedule. This

charge is 20 cents per KVAR for KVAR's in excess of the first 25 percent of the monthly kw of demand and 40 cents per KVAR for KVAR's in excess of 50 percent of the monthly demand. The rate also contains a fuel adjustment clause with a heat rate based on 16,000 Btu per kwh. No distinction is made in the rates charge between customers served at transmission voltages and those served at lower voltages.

Review and analysis of available office data indicate that Rate Schedule "WS" may result in excessive rates or charges or may be unduly discriminatory, unduly preferential, or otherwise unjust, unreasonable and unlawful within the meaning of the Federal Power Act. Additional factual data necessary for a resolution of those questions must be obtained. Accordingly, it is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 304, 307, 308 and 309 thereof, that the Commission enter upon a hearing and investigation concerning the lawfulness of Potomac Edison's "WS" Rate Schedule Tariff described above; and that Potomac Edison be directed to submit cost and revenue data all in the manner as hereinafter provided.

The Commission orders:

(A) A public hearing shall be held concerning the lawfulness of Potomac Edison's "WS" Rate Schedule Tariff, as described above, at a time and place to be specified by further order of this Commission.

(B) Potomac Edison shall file, on or before September 9, 1963, cost and revenue data showing Potomac Edison's costs of rendering service to each wholesale for resale customer served under the Rate Schedule Tariff "WS" referred to in paragraph (A) above, calculated in accordance with applicable Commission rulings and utilizing, among other things, as the test period the calendar year 1962 showing both historical revenues and pro forma adjustments thereto, a prudent net investment rate base, and a fair rate of return thereon.

(C) The foregoing showing shall not preclude or limit any additional showing by Potomac Edison or others and shall be without prejudice to any future action taken by the Commission or its staff, or to any future positon Potomac Edison or others may wish to take as to the significance of, or conclusions to be drawn from, the above factual showing.

(D) The foregoing showing shall be submitted in writing with sufficient copies to provide this Commission with six copies, to provide each State Commission affected with a like number of copies and to provide one copy each to all other parties as may be granted intervention in this proceeding.

(E) Notices of intervention or petitions to intervene in this proceeding may be filed with the Commission on or before July 15, 1963, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-6251; Filed, June 13, 1963; 8:47 a.m.]

[Docket No. RI60-211]

HUDSON GAS & OIL CORP. ET AL.

Order Making Successors in Interests Co-Respondents, Accepting Corporate Surety Bond, Accepting Agreement and Undertaking, and Redesignating Proceeding

JUNE 4, 1963.

Hudson Gas & Oil Corporation (Operator), et al., and San Jacinto Oil and Gas Company (Operator), et al., Docket No. RI60-211.[1]

On May 21, 1962, Hudson Gas & Oil Corporation (Operator), et al. (Hudson Gas & Oil) filed a motion requesting that it be substituted for E. J. Hudson, et al. (Hudson) as respondent in the proceeding in Docket No. RI60-211 since E. J. Hudson has assigned and transferred to Hudson Gas & Oil all of his interests in the gas sales covered by E. J. Hudson, et al.'s FPC Gas Rate Schedule No. 8, which relates to Docket No. RI60-211. On May 16, 1962, Hudson Gas & Oil filed a corporate surety bond to assure the refund of all excess charges determined in Docket No. RI60-211.[2] By Commission letter dated July 11, 1962, E. J. Hudson, et al.'s FPC Gas Rate Schedule No. 8 was redesignated as Hudson Gas & Oil Corporation (Operator), et al.'s FPC Gas Rate Schedule No. 9.

On January 28, 1963, San Jacinto Oil and Gas Company (Operator), et al. (San Jacinto) filed a motion requesting (1) that San Jacinto be made co-respondent with Hudson Gas & Oil in Docket No. RI60-211 since as of December 31, 1962, Hudson Gas & Oil Corporation conveyed and transferred to San Jacinto all of its interests in the gas sales covered by Hudson Gas & Oil Corporation (Operator), et al.'s FPC Gas Rate Schedule No. 9, to which Docket No. RI60-211 relates; and (2) that San Jacinto's agreement and undertaking, filed concurrent with the motion, be accepted to assure refund of any excess charges which might be determined by a final order in Docket No. RI60-211 to have accrued subsequent to 12:00 Midnight, December 31, 1962. By Commission letter dated April 25, 1963, San Jacinto was granted in Docket No. CI63-928 temporary authorization to continue the sales formerly made by Hudson Gas & Oil, and redesignated Hudson Gas & Oil Corporation (Operator), et al.'s FPC Gas Rate Schedule No. 9 as San Jacinto Oil and Gas Company (Operator), et al.'s FPC Gas Rate Schedule No. 13.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and the Regulations thereunder that Hudson Gas & Oil and San Jacinto be made co-respondents in the proceeding in Docket No. RI60-211, that the proceeding be redesignated accordingly, that Hudson Gas & Oil's corporate surety bond be accepted for filing, and that San Jacinto's agreement and undertaking be accepted for filing.

[1] Consolidated with the proceedings in Docket Nos. AR61-2, et al.

[2] Suspended rate placed in effect subject to refund on December 1, 1960.

The Commission orders:

(A) Hudson Gas & Oil Corporation (Operator), et al. is hereby joined as co-respondent with San Jacinto Oil and Gas Company (Operator), et al. in the proceeding in Docket No. RI60-211, and the proceeding is redesignated accordingly.

(B) The corporate surety bond submitted by Hudson Gas & Oil Corporation (Operator), et al., on May 16, 1962 in Docket No. RI60-211, is hereby accepted for filing, and such bond shall assure the refund of the excess charges which might be determined by the final order in such proceeding to have accrued from December 1, 1960 to 12:00 Midnight, December 31, 1962. Such bond shall remain in full force and effect until discharged by the Commission.

(C) The agreement and undertaking submitted by San Jacinto Oil and Gas Company (Operator), et al., on January 28, 1963 in Docket No. RI60-211, is hereby accepted for filing and such agreement and undertaking shall assure the refund of any excess charges which might be determined by final order in such proceeding to have accrued subsequent to 12:00 Midnight, December 31, 1962. Such agreement and undertaking shall remain in full force and effect until discharged by the Commission.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-6252; Filed, June 13, 1963; 8:47 a.m.]

[Docket No. CP62-113]

WESTERN GAS SERVICE CO.

Notice of Application and Date of Hearing

JUNE 6, 1963.

Take notice that on November 2, 1961, as supplemented on December 13, 1962, Western Gas Service Company (Applicant), P.O. Box 5306, El Paso, Texas, filed in Docket No. CP62-113 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of certain existing facilities comprising Applicant's Texhoma-Beaver pipeline, all as more fully described in the application, as supplemented, on file with the Commission and open to public inspection.

The subject existing facilities consist of approximately 106.2 miles of various size pipe extending from a point near the Jones 1-A and Jones 1-B wells in Texas County, Oklahoma, to a point near the Town of Beaver, in Beaver County, Oklahoma.

Applicant states that it has been operating said facilities in the belief that it was not transporting natural gas in interstate commerce. However, Applicant states further that said facilities now do transport natural gas in interstate commerce and that it requests herein appropriate authorization to continue to operate said existing facilities.

The application indicates that the subject facilities connect with and form a continuous system with certain facili-

ties heretofore certificated by the Commission's order, issued February 5, 1959, in Docket No. G-16390.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 16, 1963, at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c)(1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 5, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-6290; Filed, June 13, 1963 8:53 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4135]

AMERICAN NATURAL GAS CO. ET AL.

Notice of Proposed Modification of Method of Allocating Consolidated Tax Liabilities, as Reduced by Investment Credit, Among System Companies

JUNE 10, 1963.

In the matter of American Natural Gas Company, Suite 4950, 30 Rockefeller Plaza, New York 20, New York, Michigan Consolidated Gas Company, Milwaukee Gas Light Company, Michigan Wisconsin Pipe Line Company, American Louisiana Pipe Line Company, American Natural Gas Production Company, American Natural Gas Service Company; File No. 70-4135.

Notice is hereby given that American Natural Gas Company ("American"), a registered holding company, and its subsidiary companies have filed a joint declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") and have designated section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the transaction proposed. All interested persons are referred to the joint declaration, on file at the office of the Commission, for a statement of the transaction therein proposed which is summarized below.

Declarants annually join as a group in filing a consolidated Federal income tax return. It appears that certain inequities in the allocation of the group's consolidated income tax liabilities, after giving effect to the investment credit allowed on Federal income tax returns under the Revenue Act of 1962, would result if the allocations were effected pursuant to the provisions of Rule 45(b)(6) under the Act. Accordingly, declarants propose to utilize a method of allocation which will give to each of the companies included in consolidated tax returns of American and its subsidiaries the full investment credit each company contributes to the total investment credit allowed on the consolidated returns; provided, however, that in the case of American Natural Gas Production Company (which has heretofore never had any taxable income) such company will be given its investment credit in an amount not exceeding the amount of consolidated Federal income tax liability, if any, otherwise allocable to it, the balance of such investment credit to be allocated among the other system companies (other than American Natural Gas Service Company ("Service Company")) in proportion to their own investment credits.

The filing further provides that any investment credit received by Service Company, which supplies services at cost to its affiliated companies in the American Natural system, will be accounted for on Service Company's books as a deferred credit to be amortized over the life of the related property, thereby resulting in reduced service charges to the affiliated companies served by Service Company.

The joint declaration states that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is also stated that legal fees and other expenses to be incurred in connection with the proposed transaction will not exceed $500.

Notice is further given that any interested person may, not later than June 26, 1963, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the joint declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 63-6253; Filed, June 13, 1963; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 11, 1963.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 38367: *Substituted service—D&RGW for Ashworth Transfer, Inc., et al.* Filed by Ashworth Transfer, Inc. (No. 2), for itself and interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Denver, Colo., and Salt Lake City, Utah, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

FSA No. 38368: *Iron and steel articles to points in Louisiana.* Filed by Southwestern Freight Bureau, Agent (No. B-8405), for interested rail carriers. Rates on iron and steel articles, as described in the application, in carloads, from Kansas City and St. Louis, Mo., East St. Louis and Granite City, Ill., Sand Springs, Okla., and Houston, Tex., to specified points in Louisiana.

Grounds for relief: Rate relationship and carrier competition.

Tariff: Supplement 23 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4503.

FSA No. 38369: *Liquefied chlorine gas to Franklin, Va.* Filed by O. W. South, Jr., Agent (No. A4324), for interested rail carriers. Rates on liquefied chlorine gas, in tank-car loads, from Evans City, Ala., to Franklin, Va.

Grounds for relief: Market competition.

Tariff: Supplement 82 to Southern Freight Association, Agent, tariff I.C.C. S-194.

FSA No. 38370: *Liquefied chlorine gas to Chattanooga, Tenn.* Filed by O. W. South, Jr., Agent (No. A4325), for interested rail carriers. Rates on liquefied chlorine gas, in tank-car loads, from McIntosh, Ala., to Chattanooga, Tenn.

Grounds for relief: Market competition.

Tariff: Supplement 82 to Southern Freight Association, Agent, tariff I.C.C. S-194.

FSA No. 38371: *Gravel from Attica, Ind., to Sadorus, Ill.* Filed by Illinois Freight Association, Agent (No. 205), for and on behalf of Wabash Railroad Company. Rates on gravel, as described in the application, in carloads, from Attica, Ind., to Sadorus, Ill.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 165 to Wabash Railroad Company tariff I.C.C. 7844.

FSA No. 38372: *Substituted service—ACL & CN&L for Pilot Freight Carriers, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 80), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Greenville, S.C., and Norfolk, Va., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 9 to Southern Motor Carriers Rate Conference, Agent, tariff MF-I.C.C. 1230 and I.C.C. 38.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 63-6259; Filed, June 13, 1963; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—JUNE

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during June.

1 CFR

	Page
CFR Checklist	5411

3 CFR

PROCLAMATIONS:	
1322	5407
1991	5407
3279	5931
3290	5931
3328	5931
3386	5931
3388	5407
3389	5931
3509	5931
3531	5931
3539	5407
3540	5635
3541	5931
3542	5707
EXECUTIVE ORDERS:	
8647	5648
10289	5605
11110	5605
11111	5709
11112	6037

5 CFR

6	5461, 5639, 5711
201	6062

6 CFR

10	5557
540	5711

7 CFR

29	5411
51	5607
101	5637
102	5637
103	5637
104	5637
105	5637
106	5637
107	5637
108	5637
110	5637
111	5637
112	5637
113	5637
205	6009
319	6010
722	5609
728	6039
730	5557
775	6039
815	6061

7 CFR—Continued

	Page
817	6010
850	5663
908	5411, 5637
910	5412, 5638
911	5493
915	5412, 5610
916	5412, 5413
917	5663
923	5711
944	5638
970	6062
1032	5610
1048	5455
1108	5493
1201	5414
1421	5455, 5558
1427	5712, 6011
1464	5717
1482	5455
PROPOSED RULES:	
26	5430
51	5675
52	5524
730	5581
911	6082
965	5527
990	5431
1001	6107
1002	6139
1004	6171
1006	6107
1007	6107
1010	6171
1014	6107
1015	6107, 6139
1048	5527
1135	6082

9 CFR

51-97	5933
92	5461, 5613, 5663

12 CFR

545	5414
563	6062
PROPOSED RULES:	
545	6095

13 CFR

121	5610, 6063

14 CFR

13 [New]	6064
71 [New]	5456, 5613, 5639, 5640

14 CFR—Continued

	Page
75 [New]	5718
305	5989
385	5991
399	5494
507	5613, 5614, 5640, 5991
514	5560
609	5992, 6000
610	5414
PROPOSED RULES:	
40	6083
71 [New]	5436-5438, 5479, 5480, 5528, 5530, 5531, 5583, 5650, 5651, 5680, 5724, 5725, 6017, 6091-6093.
73 [New]	5480, 5583, 5725
191	5532
223	5723
302	6082
507	5651

16 CFR

13	5417, 5419, 5614-5616
PROPOSED RULES:	
320	5619

17 CFR

18	5419
250	5664
259	5664
PROPOSED RULES:	
1	5477

18 CFR

PROPOSED RULES:	
101	5681
201	5681

19 CFR

1	5561, 6012
4	5561
10	6065
16	6065
23	5462, 5561
25	6065

21 CFR

1	5719
3	5719
8	5719
15	6066
17	6066
19	5420, 5495, 6067
25	6067
27	5422
42	5719

21 CFR—Continued

Page

120 — 5423, 5495
121 — 5562, 5563, 5640, 5671, 6012, 6067, 6068
141 — 5462, 5617
141a — 5462
141b — 5462
141c — 5462
141d — 5462
141e — 5462
146 — 5462
146a — 5462, 5563, 5617, 5720
146b — 5462
146c — 5462
146d — 5462, 5617
156e — 5462, 5671
164 — 5719
165 — 5719

PROPOSED RULES:
42 — 5619
45 — 5432
141a — 5528
146a — 5528
191 — 5582

24 CFR

200 — 5419
203 — 5641
207 — 5641
213 — 5641
220 — 5641
221 — 5642
232 — 5642
233 — 5643
234 — 5643
608 — 5643
810 — 5643

25 CFR

PROPOSED RULES:
141 — 5581
221 — 5723

26 CFR

1 — 5720
44 — 5720

PROPOSED RULES:
1 — 5523, 5723

28 CFR

42 — 5617

29 CFR

512 — 5644
526 — 6012
602 — 6013
604 — 5496
606 — 5496
690 — 5497

32 CFR

7 — 6068

32 CFR—Continued

Page

16 — 6068
137 — 5666
536 — 6069
554 — 5564
564 — 5564
828 — 5646
836 — 5647
861 — 5565
862 — 6070
1001 — 5569
1002 — 5570
1003 — 5570
1004 — 5570
1007 — 5571
1009 — 5575
1010 — 5575
1012 — 5576
1013 — 5576
1016 — 5576
1030 — 5576
1103 — 5498

32A CFR

OEP (CH. I):
DMO XII-1 — 6074

33 CFR

3 — 5475
202 — 5721
203 — 6074
207 — 5721

36 CFR

7 — 5456
212 — 6013
251 — 5617
261 — 5617

PROPOSED RULES:
7 — 5523

38 CFR

3 — 5618, 5671
13 — 5721

39 CFR

41 — 5423
111 — 5423
112 — 5423

41 CFR

5B-1 — 5456
5B-2 — 5457
5B-16 — 5458
9-4 — 5424
11-1 — 6074
50-202 — 5460
60-1 — 5671

42 CFR

PROPOSED RULES:
52 — 5432
73 — 5477, 5478

43 CFR

Page

75 — 6076
130 — 6076
132 — 6076
146 — 6076
148 — 6076
149 — 6076
166 — 6076
167 — 6077
176 — 6077
221 — 6077
232 — 6077
234 — 6077
250 — 6078
254 — 5577, 6078
257 — 6078
270 — 6078
296 — 6078

PUBLIC LAND ORDERS:
559 — 5648
2970 — 5648
3005 — 5648
3012 — 5648
3016 — 5648
3088 — 5722
3098 — 5648
3099 — 5648
3100 — 5722

45 CFR

60 — 5424

46 CFR

10 — 5672
43 — 5673
45 — 5673
255 — 5673
510 — 5576

PROPOSED RULES:
Ch. IV — 5619

47 CFR

3 — 5498, 5001
15 — 5577, 6081

PROPOSED RULES:
3 — 5532, 5725
21 — 6093
31 — 5725
35 — 5725

48 CFR

410 — 5513
411 — 5513

49 CFR

95 — 5648, 6016
170 — 5579

50 CFR

33 — 5580, 6016

Pages 6107–6180

PART II

FEDERAL REGISTER

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

LITTERA SCRIPTA MANET

VOLUME 28 NUMBER 116

Washington, Friday, June 14, 1963

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1001, 1006, 1007, 1014, and 1015]

[Docket Nos. AO–14–A 34, AO–203–A 16, AO–204–A 16, AO–302–A 8, and AO–305–A 7]

MILK IN GREATER BOSTON, SPRINGFIELD, AND WORCESTER, MASSACHUSETTS; SOUTHEASTERN NEW ENGLAND; AND CONNECTICUT MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Greater Boston, Springfield, and Worcester, Massachusetts; Southeastern New England; and Connecticut marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 21st day after publication of this decision in the FEDERAL REGISTER. Eight copies of such exceptions should be filed.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, were formulated, was conducted at Boston, Massachusetts, on August 28–30, 1962 pursuant to notice thereof which was issued August 16, 1962 (27 F.R. 8319).

The material issues on the record of the hearing relate to:

1. The scope of class pricing and pooling under each of the respective orders and the appropriate basis under each order for integrating into the regulatory plan milk from sources other than producers;
2. Pooling requirements for supply plants under the Connecticut order; and
3. Allocation of milk under the Connecticut order.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Issue No. 1. To maintain orderly marketing conditions in the New England markets under Federal regulation, each of the New England orders should be amended to revise (a) the basis for pooling distributing-type plants, (b) the basis for pooling supply-type plants in the December-June period, (c) the method for integrating into the regulatory plan, by means of certain payments thereon into the producer-settlement fund, milk which is disposed of as Class I milk in the New England markets, but not subject to full pooling under the New England orders, and (d) the application of the regulatory plan to milk received from plants and "bulk tank units" regulated under Federal orders outside New England and to milk disposed of to plants under such orders.

On June 4, 1962, the United States Supreme Court issued its decision in the case of Lehigh Valley Cooperative Farmers, Inc., et al., Petitioners v. United States et al., official notice of which is taken, invalidating certain application of the "compensatory payment" provisions of the New York-New Jersey Federal milk order.

Until recently each of the five New England orders contained "compensatory payment" provisions applicable in parallel circumstances. On June 13, 1962 the United States Court of Appeals for the Second Circuit, in the case of Knudsen Brothers Dairy, Inc., v. Orville L. Freeman, Secretary of Agriculture of the United States of America, invalidated certain charges imposed under these provisions as contained in the Springfield, Massachusetts, milk order. The provisions in question were suspended from the New England orders on January 1, 1963.

In light of the foregoing, twenty-two cooperative associations representing a major proportion of the producers regularly supplying the New England regulated markets requested that an emergency hearing be held to consider proposed amendments to the five Federal milk orders effective in New England. Such a hearing was held in August 1962 and substantial testimony was presented advocating the immediate development of new provisions, to replace the past compensatory payment provisions, which would be consistent with the terms of the Act, economically sound, administratively feasible under New England marketing conditions, and such that price disadvantage to fully regulated handlers in such markets would be prevented.

The industry proposals considered at the hearing set forth two general approaches of amendatory action with respect to the problem of milk disposed of in each of the New England markets which is not subject to pooling under the New England orders. One approach was that new compensatory payment provisions be developed to replace the prior provisions in the New England orders in a way that would satisfy the objections cited by the Supreme Court in the Lehigh Valley case. The other approach was that the performance requirements for pooling in each order be reduced to make pooling more inclusive, thereby decreasing the opportunities for

milk brought into the market to remain unpriced by the order.

The twenty-two cooperative associations that requested the hearing proposed that the compensatory payment provisions be continued without change (at the difference between the Class I and Class II prices) in their application to (a) receipts at regulated plants of milk from producer-handlers under any Federal order, (b) receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order, and (c) overages and other miscellaneous receipts.

The cooperatives proposed, however, that the application of such provisions as to other situations in which compensatory payments had been applied in the past be modified by providing for an alternative compensatory payment which might be elected by the handler in lieu of the above payment.

This payment would be equal to (1) the difference between the Class I price and the blended price, each applicable at the zone location of the non-Federally regulated plant at which the fluid milk products assigned to, or disposed of as, Class I milk in the Federally regulated market were received from dairy farmers, times the hundredweight of such fluid milk products, plus (2) any amount by which the classified-use value, based on the classification system and minimum prices of the order, of all the milk received from dairy farmers at such plant exceeded the combined total of the amount actually paid to such dairy farmers and the amount computed pursuant to item (1) above and paid to the producer-settlement fund. This optional payment would be available to the handler only if the reports, records, and facilities necessary to determine the amount of such obligation were made readily available to the market administrator.

Proponents contended that compensatory payments are an integral part of a plan for marketwide pooling. They based their proposal on the proposition that (1) a plant from which any substantial part of its supply is disposed of as Class I milk in a Federal order marketing area should be regulated under that order and such Class I sales should be subject to marketwide equalization of returns to producers, and (2) a plant from which only a minor part of its milk is disposed of as Class I milk in the Federal order market should not be required to pool its out-of-area Class I sales with those of the Federal order market. The latter plants, from which only "casual", i.e., minimal, distribution of Class I milk in the marketing area is made, or from which milk is shipped to a Federal order market on an opportunity basis for the purpose of disposing of temporary or seasonal surpluses, do not represent, in proponents' view, regular or reliable sources of supply for the market under regulation and the operators of such plants, by means of a reasonable compensatory payment, should be relieved of the full obligation placed on handlers whose plants are pooled under the order.

Proponent producers contended that without appropriate provision of this kind there is opportunity for the handler whose plant does not meet the requirements for pooling to enjoy a substantial competitive price advantage over handlers paying producers the Class I price for milk which they use for fluid purposes. They pointed to the adverse consequences of such a price advantage to the whole regulatory scheme.

Another producer organization proposed a compensatory payment obilgation to be imposed on nonpool milk as follows: A rate of compensatory payment on marketing area route sales by the nonpool handler at the difference between the Class I price under the order and the handler's actual cost of the milk distributed in the marketing area, with minimum prices fixed by a state agency being observed when applicable. Proponent offered no complementary plan, however, to accommodate milk entering the market in bulk from a nonpool supply plant source.

Handler proposals would apply compensatory payments on nonpool milk assigned to Class I in the following manner:

(1) At a rate equal to the difference between the Class I and blend prices, computed for the zone location at which the milk was received from dairy farmers. Such rate would apply mainly in situations where there is no substantial basis for determining the actual price paid for the milk used for Class I purposes. If the milk were classified and priced under a state price order, however, the rate proposed would be the difference between the applicable state price and the Class I price under the Federal order.

(2) On milk received from a plant under another Federal order, at a rate equal to any amount by which the Class I price in the receiving market exceeds the Class I price in the shipping market.

With respect to revision of pooling requirements (as an alternative approach), a handler proposed that the definition of a "distributing plant" in each of the New England orders be revised by reducing the minimum requirement for total Class I disposition from such plant during the month from 50 percent of its total receipts of fluid milk products in the month (or in either of the two preceding months) to 25 percent, and by reducing the minimum requirement for route disposition in the marketing area from such plant from 10 percent of its receipts from dairy farmers, or of its total receipts of fluid milk products, in the month to two percent thereof. A plant meeting the proposed minimum requirements but having in-area route disposition of less than 10 percent of its receipts from dairy farmers, or of its total receipts of fluid milk products, would not be included under this definition, however, if it received sufficient quantities of milk classified and priced as Class I milk under some Federal order to offset such route disposition.

Proponent indicated that the proposal was designed to provide for full regulation under an order of any handler's distributing plant not regulated under another Federal order from which any route sales of Class I milk, other than minor or accidental sales, are made in the marketing area. The two percent requirement in this proposal was stated by proponent to be an adequate margin to allow for the minor or accidental kind of Class I sale. By regulating such plants under any of the New England orders, there would be a minimum of milk not priced under Federal orders distributed as Class I milk in the New England markets.

It was proposed further by the same handler that the orders' pooling requirements for "supply plants" be modified so as to bring under full regulation during the months of December through June, if they meet delivery performance requirements, plants which otherwise would be nonpool plants during those months. Any supply plant which ships to distributing plants under any of the New England orders during any of the months of December through June at least 25 percent of its receipts of milk from dairy farmers would be a pool plant in that month under the order for the market to which the greatest quantity of fluid milk products was shipped. This pooling requirement would be effective although the plant had not been pooled under any of the New England orders in any of the preceding months of July through November.

Proponent indicated that the purpose of this proposal was to prevent nonpool plants having excess milk during the flush months from "dumping" significant quantities of such milk into the Federal order market which might be used for Class I purposes at a price advantage over producer milk. The 25 percent requirement was based primarily on the fact that a similar factor has been used in the past as a minimum pooling requirement under the nearby New York-New Jersey Federal order.

A corollary proposal was made whereby the definition of "dairy farmer for other markets" (a further description of this term is set forth later) would be changed so that this term would not apply to dairy farmers delivering milk to supply plants in any month in which such plants become pooled on the basis of the 25 percent requirement just described. Thus, the milk of any such dairy farmers so delivered would become subject to pricing and pooling since they would now meet the definition of a producer.

Problem of milk not pooled under Federal orders. There is urgent need for some means of dealing with milk disposed of in the New England Federal order markets which is not fully priced and pooled under some Federal order. The function of these orders is to promote orderly marketing of milk in these markets. This is done, as required by statute, principally through a classified-price plan based upon the uses of milk, with uniform (except for specified differentials) minimum prices payable to producers by all handlers, a pooling plan for equalizing returns to producers from the sale of milk in the several classes, and delivery performance requirements on plants to be eligible for pooling. A higher class price is paid for milk used for fluid consumption (Class I) than for

milk used in manufactured (surplus) uses (Class II).

All handlers regulated under the orders are required to pay producers, through the producer-settlement fund, minimum uniform (or blended) prices commensurate with the weighted average value of the uses made of producer milk on a marketwide basis.

Because the supply of milk in each of the New England markets is somewhat greater than the fluid requirements (as it must be if the order is to achieve its purpose of attaining an adequate supply of milk for the market at all times), the excess milk necessarily must be channeled to the lower-priced outlets. The market pooling of proceeds from the sale of producer milk results in uniform prices to producers regardless of the manner in which each producer's or each handler's milk is used and thus avoids detrimental competition among producers for the desirable fluid outlets. By this means all producers associated with the particular market share proportionately in the benefits of the Class I sales of that market as well as in the burden of the lower-priced surplus milk associated with it.

Since the incidence of the regulatory scheme in each market is primarily on those handlers regularly engaged in fluid milk distribution in the defined marketing area, performance standards are established in each order to distinguish between those milk plants engaged primarily in serving the fluid needs of the Federal order market (with such plants being subject to full price regulation under the order) and those milk plants which do not serve the market in a way, or to a degree, which warrants their being pooled under the order.

In the past plants of the latter type have not been fully regulated under the New England orders. It has been recognized that to regulate fully all the milk handled at these plants either could place the plant operators at a competitive disadvantage with respect to the major part of their business conducted in other markets not under Federal regulation, or, in other instances, would permit them to have their plants pooled without performing the marketing functions which are necessary to assure the public an adequate supply of milk.

Yet, to allow operators of such plants to distribute or deliver for Class I use in the New England Federal order markets milk which is not equivalently priced, or nearly so, would give them a significant competitive advantage over handlers operating plants fully regulated under the orders who are required to pay minimum class prices for all producer milk which they use. Pool handlers normally rely on producers under the orders for the milk which they distribute in the marketing areas. Unless appropriate means are adopted for dealing with milk not pooled under any Federal order which is disposed of as Class I milk in the New England Federal order markets, such handlers using producer milk for Class I purposes will not be able to compete on equal terms with other operators using such nonpool milk. Pool handlers would be under pressure, if not compelled, to resort to the use of such nonpool milk to maintain their competitive position in the Federally regulated markets.

Thus, some action is necessary to neutralize any competitive price advantage which milk not pooled under any Federal order may have over producer milk. Not to take such action would be to favor, in relation to handlers and producers who provide the regular, dependable and continuing sources of supply for the New England Federal order markets, those operators who seek Class I outlets in such markets on a temporary or sporadic basis or those handlers who do most of their business in the non-Federally regulated markets and have only limited route sales in the marketing area. Unless such action is taken, the returns to producers through the loss of pool Class I sales also would be diminished.

The imposition of a compensatory payment on the handler of milk not pooled under any Federal order was intended to neutralize the competitive advantage attached to such milk. While the Supreme Court ruled that a compensatory payment on nonpool milk as applied in the circumstances involving the New York-New Jersey order was inconsistent with the terms of the Act, the Court recognized, however, that because of the manner in which Federal orders function "it is quite obvious that under certain circumstances some regulation of such milk may be necessary".

On the basis of the marketing conditions found to prevail in the New England Federal order markets, as set forth in this decision, it is concluded that to assure the continuation of orderly marketing in these markets the New England orders should be amended to redefine to some extent the sources of milk to be fully regulated and to deal with any remaining milk not regulated under any Federal order by means of payments on such milk into the producer-settlement fund, or "pool". Unless the orders contain provisions which adequately relate milk not subject to pooling under any Federal order to the total scheme of regulation, the very existence of the New England orders, designed as they are to stabilize markets in the manner prescribed by statute, may establish the condition which makes attainment of such stabilization impracticable.

Except when it is expressly indicated otherwise, the amendments adopted herein are equally applicable to each of the five New England orders.

Requirements for pooling. Because the effect of the Lehigh decision is to render more difficult the protection of the regulatory plant from the unstabilizing effects of milk not regulated under any Federal order, consideration should be given first to modifications designed to reduce the opportunity and potentiality for milk to enter the New England Federally regulated markets as nonpool milk. This would be done by changing the performance standards for determining the pool status of both distributing-type and supply-type plants. (A discussion concerning the application of pooling standards to plants which meet the pooling standards under a Federal order providing for individual-handler pooling is set forth later under the subheading "Milk from other Federal orders".)

As previously stated, each New England order provides for performance standards to determine which plants are principally associated with the regulated market and, thus, which milk should be subject to full regulation under the order. A distributing-type plant (i.e., a plant which has packaging facilities and from which a significant portion of its milk is distributed on routes in the form of fluid milk products) meeting the specified performance standards of the order is fully regulated and consequently the producer milk disposed of from such a plant is fully pooled and priced by the order. A plant which does not meet these performance standards is not fully regulated under the order, and in the past milk from such a plant has been subject to a "compensatory payment" when it has entered the marketing area for Class I use.

One potential source of nonpool milk is any plant customarily identified with the market as a "regulated distributing plant", which the handler might, purposely or inadvertently, cause to lose regulated status (by not meeting the minimum total Class I use requirement basic to such status). There are a number of distributing plants regulated under the New England orders at which the utilization of milk in Class I is little in excess of 50 percent of receipts. In view of this circumstance, the minimum total Class I disposition which a distributing-type plant must have during the month, or in either of the two preceding months, to be fully regulated under the order should be changed from 50 percent to 40 percent of its total receipts of fluid milk products. In this way any distributing plant now regulated under the order at which Class I utilization falls somewhat below 50 percent, but still remains above 40 percent of such receipts during the month, or in either of the two preceding months, would not become unregulated. Such a change will minimize the opportunity of handlers in this circumstance to gain a price advantage by causing the plant to lose its pool status.

No change need be made, however, in the minimum percentage (10 percent) of route disposition in the marketing area to receipts of milk which such a distributing plant must have to be fully regulated. The 10 percent performance standard has worked satisfactorily and there is no reason for its revision under the method proposed herein for treating nonproducer milk. It is appropriate, though, in the case of those distributing plants at which some milk is received directly from dairy farmers, to base such percentage on total receipts (including "diverted" milk) of fluid milk products at the plant rather than on receipts from dairy farmers only. The "total receipts" application is currently used for distributing plants of "buyer-handlers" who do not purchase milk directly from dairy farmers. By making this change, a uniform basis is provided for determining the status under the order of the handler's distributing plant whether all milk

is received directly from producers or part of the milk is received from other sources. (Such performance standard may be found under the new definition of "regulated distributing plant" in four of the proposed amended New England orders and in the revised definition of "pool plant" under the proposed amended Connecticut order.)

Any distributing plant otherwise meeting the pooling requirements should be exempt from regulation under the order, however, if the route disposition in the marketing area from such plant does not exceed an average of 300 quarts per day during the month. The operator of such a plant should be required only to file certain reports with the market administrator and to permit verification of the accuracy of such reports. A handler who sells not more than a daily average of 300 quarts (approximately 9,000 quarts per month) of fluid milk products on routes in any one of the New England markets does not affect the competitive condition of the market to a degree which makes it necessary to regulate him. Such a daily quantity represents less than the disposition on an average retail route and substantially less than the average quantity on a wholesale route. A plant otherwise exempt under this provision should be pooled, however, if it meets the pooling requirements applicable to supply plants. Not to provide for pooling the plant under this circumstance could lead to possible abuse of this exemption.

Exemption from regulation under the order is appropriate also for the handler operating a distributing-type plant not meeting the requirements for full regulation under any Federal order whose in-area route sales of milk do not exceed an average of 300 quarts per day during the month, or whose in-area route sales of milk do exceed such quantity but who purchases during the month a sufficient quantity of Class I milk priced under any Federal order providing for marketwide pooling to offset all but 300 quarts per day or less of the in-area sales. The net in-area route disposition (i.e., the total route disposition minus any offsetting purchases of such Federal order Class I milk) in excess of 300 quarts per day from such a distributing-type plant, however, should be subject to a "pool payment" by the handler at a rate equal to the difference between the order Class I and blend prices. Such rate of payment will tend to minimize the price advantage which this milk has relative to producer milk disposed of on routes in the marketing area. (The need for, and application of, pool payments on this and other nonpool milk is described in detail later.) If the plant should meet the pooling requirements applicable to supply plants, however, the plant should not be exempt from regulation under the order.

Recognition of the purchase of milk classified and priced as Class I milk under any Federal order providing for marketwide pooling by a handler distributing nonpool milk in the marketing area should be continued under the orders. To the extent of the quantity of such priced Federal order milk that is purchased by the handler to offset nonpool milk distributed in the Federal order market, there is no reason to require a payment into the producer-settlement fund on an equivalent amount of such nonpool milk. The "in-area" sales of nonpool milk which are offset represent, in effect, sales of milk which is already priced under a Federal order in a manner similar to that in which producer milk is priced under the order in effect in the market where the nonpool milk is distributed. Such is the case whether the milk is priced under the local order or under some other Federal order inasmuch as the other Federal order prices are closely aligned or are appropriately related to the prices under the local order.

The New England orders should be modified, however, to provide that purchases of milk classified and priced as Class I milk under a Federal order providing for individual-handler pooling not be used to offset nonpool milk distributed on routes in the marketing area. Described later in detail in this decision, under the subheading "Milk from other Federal orders", is the application, and the need therefor, of pool payments to Class I milk disposed of in the New England markets from individual-handler pool plants. In view of this price treatment accorded individual-handler pool milk, it is not appropriate to allow in-area route sales of nonpool milk to be offset with Class I milk purchased from individual-handler pool plants.

Any supply-type plant (i.e., a plant which is not a pooled distributing plant and from which milk, usually in bulk form, is shipped to distributing-type plants) not fully regulated under a Federal order outside New England from which 15 percent or more of its receipts is shipped to distributing plants in any of the New England markets during each of the months of July through November is fully regulated under the order where the greatest quantity is shipped. A supply plant meeting the July through November delivery performance standards has automatic pooling status during the subsequent months of December through June. Any supply-type plant not meeting these pooling requirements under any of the New England orders in the July–November period is not eligible for pooling during the December–June period if the plant is operated by the same handler during both periods. Any supply-type plant which meets the above requirements during the July–November period, but for which the operator thereof elects nonpool plant status for any of the months of December through June, remains a nonpool supply plant until the following July unless the plant again qualifies for pooling by meeting the delivery performance standards.

Over the years nearly all supply-type plants located in New England have qualified for pooling and are presently regulated under one or another of the Federal orders. Although it has been possible for such plants to be withdrawn from pool plant status and thus to be unregulated during part of or all the December–June period, handlers normally have not done this because it has been more advantageous to keep such plants fully regulated than to make payments into the producer-settlement fund at the Class I price minus Class II price difference on Class I sales in the market from these plants. In the absence of such a payment, however, some supply plants now could gain a price advantage in the sale of nonpool milk in the New England Federal order markets.

Some other safeguard therefore must be provided. Accordingly, it is necessary to require that a supply-type plant be pooled for any month in the December-June period when 15 percent or more of its receipts are shipped in the form of fluid milk products to distributing plants in the New England markets. The plant would be pooled in the market to which the greatest quantity of fluid milk products was shipped.

This pooling standard for the December-June period is necessary, also, to permit a supply-type plant which was not pooled under the order during the previous July-November period to enter the market during any of the months of December through June and qualify for pooling by meeting the delivery performance standards, irrespective of whether the plant was operated by the same handler during both periods. In this connection it was proposed that the minimum performance standards be higher during the December-June period as compared with the earlier five months. No valid purpose would be served, however, by an increased delivery requirement in months of relatively heavier milk supply.

Pool payments on non-Federal order milk. Having adjusted the pool plant requirements in the interest of reducing the quantities, or potential quantities, of milk not pooled under any Federal order which is disposed of in the Federally-regulated New England markets, it is appropriate to consider the means of preventing milk remaining nonpool from having price advantage when used for Class I purposes over milk fully regulated in these markets. This means is a system of payments on the nonpool milk into the producer-settlement fund which takes into account the value of the milk according to its particular source compared to its use value in the Federal order market.

Industry witnesses at the hearing emphasized both the actual and potential disposition to New England Federal order plants from supply-type plants of milk not pooled under any Federal order which is available, primarily in bulk form, for Class I uses at relatively low prices. Historically, nearly all milk supplies for the New England markets have originated within 400 miles of Boston. Supply-type plants within such area are readily accessible to one or another of the Federally regulated markets in New England and New York or in areas adjacent thereto. Within this distance nearly all supply-type plants with milk eligible for fluid consumption are attached already to a Federally regulated market.

A few remaining supply-type plants, on the other hand, by decision of the

plant operator, have maintained primary outlets in one or more non-Federally regulated fluid milk markets within the region. Irregular or sporadic shipments from these plants to New England Federal order markets of milk which is made available on a less-than-Class I price basis strongly indicate that such shipments are made on an opportunity basis when the milk cannot be utilized by the plants' regular outlets and otherwise would gravitate to surplus disposition.

While there presently are very few non-Federally regulated supply-type plants in New England, it is within the discretion of operators of supply plants now regulated under one of the New England Federal orders to cause, either inadvertently or intentionally, such plants to lose pool plant status and thereby become sources of nonpool milk. In the particular circumstance of the handler who operates both a distributing plant and a supply plant under Federal regulation, it could be especially advantageous, without an appropriate method of treating such milk under the regulatory plan, to cause the supply plant to lose its pool plant status. The handler thus would have a ready supply of nonpool milk, either packaged or bulk, for Class I purposes.

Another potential source of nonpool milk for Class I use at pool plants under the New England orders is a plant under a Federal order through which some milk in bulk may be permitted to pass without being priced and pooled under order terms. Official notice is taken of the New York-New Jersey Federal milk order (Order No. 2) which provides that under certain conditions milk may enter New York-New Jersey pool plants and be disposed of therefrom without being priced under such order. Such "pass-through" milk obtained by a New England handler from a New York-New Jersey pool plant would be from a price standpoint the equivalent of milk from a completely unregulated supply plant source.

To the extent, then, that a handler under any New England Federal order has Class II uses, milk which is received at a regulated distributing plant or supply plant from non-Federally regulated supply-type plants (i.e., unregulated plants which dispose of less than 50 percent of their receipts in fluid form on routes in non-Federal order markets) located 400 miles or less from Boston should not displace in Class I producer milk regularly associated with the Federal order market. Such nonpool milk received in bulk or packaged form from a supply-type plant should be assigned first to Class II milk. If the quantity of nonpool milk is greater than the quantity of Class II milk, the balance should be assigned to Class I milk. Any quantity so assigned to Class I milk should be subject to a payment into the producer-settlement fund, or pool payment, at the difference between the Class I and blend prices applicable at the location of the plant from which such milk was first received from dairy farmers.

A pool payment at a rate equal to the difference between the Class I price and the blend price on the nonpool milk described above which is allocated to Class I will tend to reduce the price advantage associated with such milk relative to producer milk. This rate of payment into the producer-settlement fund will be appropriate in the circumstances even if the handler chooses to pay his dairy farmers more than the blend price on such nonpool milk since a pool handler may, if he chooses, pay his producers more than the blend price but must still account to the producer-settlement fund as if he had paid only the blend price.

While such a rate of payment will not remove, in all cases, the competitive advantage which the nonpool milk could have in the New England Federal order markets, it will tend to minimize this advantage. The quantity of such nonpool milk introduced into the regulated markets is expected to be small, and the quantity which might be assigned to Class I will be minimized by first assigning such nonpool milk to the extent possible to Class II. Because of these circumstances, it is feasible to adopt this rate of payment and to observe the degree to which it achieves the purpose of assuring the orderly marketing of producer milk.

A distinction may be made between the treatment of bulk milk shipments to a regulated distributing plant from supply-type plants not regulated under Federal orders which are located beyond 400 miles of Boston and that applied to bulk shipments from supply-type plants within the 400 mile area. As has been set forth, there are many opportunities for underpriced milk to enter the marketing area under conditions which would be destructive to effective regulation. Certain measures which it is believed will be effective in dealing with this milk when it arises within 400 miles have been described.

To be sure, underpriced milk is also available from the plants more distant from these markets. However, the costs of transportation are such that when added to the procurement cost there is reason to believe that under a somewhat more liberal provision such milk will not enter the marketing area at prices or under conditions which would be destructive of effective regulation.

This more liberal provision involves "equalization" of the classified value of such nonpool milk. Under this scheme the transferee-handler operating the regulated distributing plant is debited for the nonpool milk at the order's applicable class prices and is credited for such milk at the blended price for the location of the plant from which such milk was first received from dairy farmers. The milk is assigned to the receiving handler's utilization of milk in Class I and Class II in the same manner as producer milk. As to that portion of nonpool milk assigned to Class I there would be, in effect, a pool payment at the difference between the Class I and blended prices, but on any portion of the nonpool milk assigned to Class II milk there would be a credit to the handler at the difference between the blended and Class II prices. Thus, this treatment of such milk moved to New England from the more distant areas would treat the milk as though it were received from a producer at a plant located in these distant areas.

It is expected that packaged milk would not be shipped to New England regulated distributing plants from non-Federally regulated distributing-type or supply-type plants located more than 400 miles from Boston except in unusual circumstances. However, if milk were so shipped in this form from such unregulated plants, the pooling treatment just described would tend to prevent undue price advantage for such milk and, therefore, is appropriate in such circumstances. Similar pooling treatment should be applicable also to bulk milk shipped to New England regulated distributing plants from non-Federally regulated distributing-type plants located in such distant area.

Any milk from such distant sources should be treated in a different manner, however, if it is received at supply plants regulated under the New England orders. Such milk should be allocated to Class II milk to the extent that Class II use (which in most instances would be adequate to cover such receipts) is available at the pool supply plants. In the unlikely event that some of such milk is allocated to Class I milk, the handler operating the supply plant should be required to account to the producer-settlement fund on such Class I milk at a rate equal to the difference between the Class I and blend prices.

Milk from non-Federally regulated markets seldom is moved to New England pool supply plants for other than surplus disposal purposes. The orders presently reflect this situation by providing that such milk be "down-allocated" to Class II milk to the extent possible. This treatment of the nonpool milk received at these plants should be continued so as not to disturb the orderly disposal of surplus milk of both Federally and non-Federally regulated fluid milk markets or hinder the procurement of milk for the efficient operation of manufacturing facilities at the pool supply plants. To minimize the price advantage which such nonpool milk would have relative to producer milk, however, if on occasion it should be assigned to Class I milk, it is appropriate to require a pool payment on the milk by the handler operating the pool supply plant.

Under either treatment of nonproducer milk, i.e., regardless of distance from market, there would be no obligation under the order on the handler of the milk in the Federal order market to return the minimum uniform price to the individual dairy farmers at the nonpool plant supplying such milk. Also, the actual payment by the operator of the nonpool plant to dairy farmers would not be determined by the order, whereas in the case of producer milk a handler must pay his producers not less than the announced uniform price for all milk obtained from them. For administrative convenience, the pool handler should be held responsible for paying the administrative assessments and for making any obligated payments into the producer-

settlement fund, or receiving any credit from such fund, which are applicable to such nonpool milk. It is the pool handler who actually utilizes the nonpool milk in a regulated plant and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. It is appropriate, therefore, that the pool handler be responsible for payments required by the order on such nonpool milk.

In addition to milk from non-Federally regulated supply-type plants located within this area, it is evident that milk is available for disposition in the New England Federal order markets at nonpool distributing-type plants located within 400 miles of Boston which are associated primarily with non-Federal order fluid markets in Massachusetts, Maine, New Hampshire, Vermont and Pennsylvania. Such milk may be disposed of directly on routes in the New England Federal order markets. Also, it may be made available in packaged form for purchase and resale by handlers operating plants regulated under the New England orders. Operators of such distributing-type plants customarily are engaged in the distribution of milk on routes in local markets. On occasion, however, such operators may find it advantageous from a price standpoint to package milk normally not needed for their local fluid milk outlets and ship it to New England Federally regulated plants.

This packaged milk, which is so shipped on an opportunity basis, should not displace in Class I producer milk regularly associated with the market. Therefore, the treatment previously described with respect to milk received from supply-type plants located within 400 miles of Boston should be applicable also to packaged milk received at a regulated plant from non-Federally regulated distributing-type plants located within 400 miles of Boston. Such distributing-type plants are located within the New England milkshed. It is reasonable to expect, therefore, that competition in procurement would require the plant operators to pay their dairy farmers prices approximating the New England blend prices in order to be assured of a constant and dependable supply of milk for fluid uses. Any such milk should be assigned first to Class II milk with any remaining balance assigned to Class I milk. A pool payment at the difference between the Class I and blend prices should be applicable on that milk assigned to Class I. A rate of payment so applied thus will tend to minimize the price advantage associated with packaged milk disposed of from non-Federally regulated distributing-type plants on routes in the marketing area or to Federal order plants.

The record strongly supports a different treatment of milk which is received in bulk form from distributing-type plants with major fluid milk outlets in non-Federally regulated markets located generally within 400 miles of Boston. Such milk is of the very essence of surplus and the regulatory plan simply cannot be effective in dealing with such milk unless it is treated as surplus and a surplus value is assigned to it.

Most nearby non-Federally regulated fluid milk distributing plants in the States of Massachusetts, Maine, New Hampshire and Vermont are subject to State price regulation as to some portion of their milk uses, as further described below. The State of Pennsylvania, from which milk is shipped to outlets in Federally-regulated New England markets from time to time, also has State price regulation on at least portions of milk handled at fluid milk distributing plants in the State. The pertinent aspects of State price regulation at plants of this type were described in the record.[1]

The fluid milk distributing plants under various State regulatory agencies have day-to-day and seasonal surpluses of milk not needed to fulfill their fluid milk requirements. For instance, a proprietary handler with several pool distributing plants from which it sells milk in all the New England Federal order markets also operates nonpool distributing plants serving local fluid milk markets in Maine, such as Auburn, Augusta, and Portland, which are subject to Maine State price control. These plants inevitably have surpluses of milk from time to time as do all milk plants. Such surpluses are a necessary consequence of adequately supplying these local markets. The Maine distributing plants do not have the equipment to convert these surpluses into manufactured dairy products. It has thus been necessary to move this milk to some other location in order to dispose of it. As a matter of convenience to the handler, this surplus milk is frequently moved in bulk to a Boston Federal order plant at Charlestown, Massachusetts.

This milk is customarily packaged at the Charlestown plant for Class I sale. Yet, it has been necessary to assign a Class II value to the milk, even though it actually was disposed of as Class I, because the handler has sufficient Class II utilization at other of its plants regulated under the order to offset such receipts. This fact of substitution of surplus milk from a nonpool source for pool milk being received at other plants of the same handler, simply as a convenient means of disposing of the nonpool milk, was recognized both by the handler of the milk and the State of Maine milk control agency. The handler proposed and supported at the hearing a provision which would recognize that milk handled under these circumstances is surplus. The State of Maine, in recognition of the actualities in the case and in order to provide for the disposition of such milk, designates out-of-State bulk shipments from State-regulated plants as Class II. In dealing with this milk the Federal orders for the New England states also must recognize this situation and provide for the assignment of a Class II, or surplus, value to this milk when it is received at a Federal order plant.

Even if such milk were assigned a Class II value under these orders, some price advantage could still accrue from the use of this milk. This is so because the Class II price under Maine price control is generally lower than the comparable use price under the New England Federal orders. For example, Boston Class II prices for the 21st zone in June and July 1962 were $2.985 and $3.162, respectively. The Maine Class II prices in the same months were $2.87 and $2.895, respectively.

A second handler provided data on the cost of surplus milk shipped from his Caribou, Maine, nonpool plant to his Federal order plant at Fall River, Massachusetts. Shipped as bulk milk, the applicable price (Class II) to dairy farmers under State regulation for June 1962 at Caribou was $2.87 per hundredweight. The hauling cost from Caribou to Fall River amounted to 60–65 cents per hundredweight. Thus, the cost f.o.b. Fall River was approximately $3.50 per hundredweight compared to a Class I price at Fall River under the Southeastern New England Federal order of $5.51 for the same month. The price advantage, without further obligation on the handler, would be approximately $2.00 per hundredweight.

Actually, the handler paid a compensatory payment on the milk at the difference between the Southeastern New England order Class I and Class II prices ($1.82 per hundredweight), as in effect at that time, and thus, in practice, did not have the substantial price advantage indicated. He did have an advantage of almost 20 cents per hundredweight even though a compensatory payment at the difference between the Class I price and the surplus price was assessed.

Basically similar circumstances prevail at State-regulated fluid milk distributing plants in other nearby markets. For over ten years the New Hampshire Milk Control Board has followed closely the New England Federal order Class I pricing formula, establishing minimum prices very similar to the class prices under the Boston order. The State exempts operating cooperatives from price regulation, however. New Hampshire prices out-of-State bulk sales on the basis of the classification claimed by the shipping plant. Thus, if bulk milk is actually the surplus of a State-regulated distributing plant, it may be assigned a surplus value in order to dispose of it in a Federally-regulated plant.

In Vermont, the State's "flat" price for dairy farmer receipts in most local markets, where the milk is used primarily in fluid form, is fixed uniformly at a level 25 cents over the Boston blend price at the 21st zone. In Windham and Windsor Counties, which are located in the part of Vermont closest to Boston, the State's price, however, is 47 cents over such Boston blend price. Vermont does not classify or price in any manner out-of-State milk sales either in bulk or packaged form.

[1] Milk received from farms at supply-type plants or at manufacturing plants usually is not covered by State price regulation. As stated earlier, Federal price regulation applies to nearly all milk purchased for Connecticut and Rhode Island and also for substantial portions of the Commonwealth of Massachusetts.

Under Massachusetts price regulation there are three types of pricing plans available to the distributor. The State, like Pennsylvania and other states in New England, provides for "individual-handler" pools rather than for market-wide pooling in its price districts and one, two or all three pricing plans may be found within the same State marketing area.

The first plan is the "flat price" plan, under which the dealer pays a single price for all milk received regardless of its utilization. This plan provides an exception, however. The Director of Milk Control may, upon the dealer's application, issue an emergency permit which, for temporary periods, places the dealer under a classified use plan of buying so that he may assign a surplus value to milk purchased beyond his fluid requirements. When the plant operator chooses this option the milk is usually moved as Class II milk to a Federally-regulated (pool) plant at Worcester or West Springfield, Massachusetts, where surplus disposal facilities exist. The dairy farmers do not become pool producers, however.

The second plan is the "composite", or use, plan. The dealer accounts for his milk in accordance with ultimate utilization based upon two classes. The classes are generally similar to those under the Federal order's classified price plans. Milk moved into a Federally regulated marketing area can be accounted for on the basis of its assignment under the Federal order. State dealers are on a compulsory butterfat payment basis under this plan.

The third plan is the "base-rating" plan. Here the dealer's Class I sales are first applied to a "base" volume delivered by each producer. The producer bases are set in relation to a base period delivery performance by a base rating committee made up of producers. Bases are generally adjusted to approximate the Class I volume of the dealer. The remaining milk over base (and sometimes in small quantities within base) is Class II milk.

The Massachusetts Class II price, which reflects a butterfat value only and is applicable to milk surplus to the distributor's fluid requirements under any of these plans, is consistently lower than the Class II price under the Boston Federal order. Such prices for 3.7 percent milk in June and July 1962 were $3.043 and $3.22, respectively, at city plants under the Boston Federal order and $2.884 and $2.895, respectively, at plants under State regulation.

Class II prices established by the Pennsylvania Milk Control Commission also are generally lower than the prices for the comparable use classes under the New England Federal orders. In July 1962, the State price at Harrisburg, Pennsylvania, for Class II milk was $2.926 for milk testing 3.7 percent butterfat. The Boston Federal order Class II price at the 21st zone that month was $3.162 for milk of similar butterfat test.

Milk available in bulk at State-regulated fluid milk distributing plants in Pennsylvania is not priced at all under State regulation when moved to an out-of-State market. The surplus milk of these plants thus represents an ever-present and immediate source of nonpool milk at prices equal to or even less than the surplus prices of the New England orders.

In the above circumstances a substantial advantage would accrue to the regulated handler in the Federal order market using the surplus of State-regulated fluid milk distributing plants if he were allowed credit on the milk at any value over the Federal order Class II price. Even though a Class II credit is allowed, such milk may still have some price advantage relative to producer milk, since a price even lower than the Federal order Class II price attaches in certain instances. The Class II price credit, however, will minimize such advantage.

It is possible that in some instances a pool handler may pay a price slightly in excess of the Federal order Class II price for bulk milk which he purchases from the operator of a non-Federally regulated distributing-type plant. In such cases, no allowance should be made to recognize handling margins or profits between the two operators or the price actually paid by the one operator to the other. Fully priced and pooled milk also is commonly sold by one pool handler to another for use in Class I. In such circumstances, the second handler of the pool milk usually pays a negotiated "handling charge" above the Class I price to cover the seller's costs on prior handling of the milk, plus profit, if any. Such costs include those incurred for weighing, sampling, testing and cooling the milk received from farms and for a quality-control program covering such farms. However, for regulatory purposes the Act and the order do not permit any credit against the Class I price for these inter-handler arrangements or prices on producer milk. This is because the minimum class prices for producer milk attach and apply as of the first step in the total handling process, i.e., when the initial handler receives the milk in raw form from producers. The order does not deal with or fix inter-handler charges or prices on priced and pooled milk, but it does require that all such milk utilized in Class I be accounted for, at source, at the Class I price without any allowance for subsequent handling costs or charges. Inter-handler margins, profits and prices thus are irrelevant in fixing proper payments on milk which is not fully pooled but which is used in the marketing area as Class I milk.

As previously stated, the Federal order classified-price plan requires the pool handler to pay not less than the Class I price for milk utilized in Class I and not less than the Class II price for milk utilized in Class II. The result is that when a handler supplies an increase in his Class I sales with producer milk which would otherwise be surplus to him, he increases the value of such milk (and his cost) by the difference between the Class I price and the Class II price on such increase in sales. It is by this means that the classified pricing plan protects each Federal order market from the price-depressing effects of its own reserve supply, or surplus, needed to insure an adequate supply of milk for consumers at all times.

The surplus milk at distributing plants in non-Federally regulated markets likewise can be used to increase Class I sales. When these increases take place outside the Federal order market, the consequences do not have an effect upon such market. But, if such surpluses are transferred to handlers in Federal order markets and are used for Class I purposes there, the effect on the marketing and price structure for producer milk is identical with that which would follow if pool handlers were permitted to use their own surplus milk for Class I purposes and continue to pay the Class II price for it. That is to say, effective regulation in the manner required by the statute would be nullified.

It is consequently necessary to recognize the special nature of the problem created by, and the special value which attaches to, bulk milk received at distributing plants and supply plants regulated under the New England orders from non-Federally regulated distributing-type plants located within 400 miles of Boston. Bulk milk delivered from such a nonpool distributing-type plant to a New England pool plant is milk which is not used for fluid (Class I) purposes at the nonpool plant and, hence, is the surplus of that plant. It is appropriate to treat this milk in exactly the same way as if it were the surplus of a Federal order pool plant, i.e., it must have assigned to it a Class II value when received by a pool plant. If the milk, in fact, is utilized in Class I at the pool plant, its value must be increased by the difference between the Class I price and the Class II price and this additional value must be retained in the pool in the identical manner that would be applied if this milk were producer milk. The effect of a lesser payment, in these circumstances, would be to grant to the nonpool plant operator an opportunity to undercut the minimum Class I price fixed by the order to the detriment of handlers purchasing producer milk. Moreover, this effect on the Federally regulated market is not minimized by the presence of State regulation of prices in local markets in this region. On the contrary, the presence of State regulation which gives recognition to the need to dispose of local surpluses in Federally regulated plants necessarily aggravates the problem.

It is thus necessary to provide in the New England Federal orders that bulk milk received at Federally regulated plants from non-Federally regulated distributing-type plants located within 400 miles of Boston be assigned a surplus value. This will be achieved by allocating such milk to any Class II milk of the handler who receives it. If, after assignment to Class II, some of the milk must be assigned to Class I, a pool payment must be assessed on the Class I milk which is computed at the difference between the Class I and the Class II prices.

There are certain other sources of milk which also are of the very essence of surplus and which must be treated accord-

ingly under the New England orders. One such source is a producer-handler who may ship milk, either in bulk or packages, to a regulated plant. Another source is milk which arises in the reconstitution of manufactured dairy products. For example skim milk may be made by adding water to nonfat dry milk solids. Still another source, under certain circumstances, is milk in bulk from a "dairy farmer for other markets". The regulatory plan cannot be effective in dealing with these sources of milk also unless such milk is treated as surplus milk and a surplus value is asigned to it.

The same treatment just described for bulk milk from nonpool distributing-type plants is equally appropriate and necessary in the case of surplus milk received by regulated handlers from producer-handlers under any Federal order. Under the present Federal orders in New England, the producer-handler is essentially exempt from regulation. He retains for himself the full return from his sale of milk on routes in competition with pool handlers. That is to say, his Class I sales are not pooled along with those of all producers whose milk is sold in the marketing area. Producer-handlers generally are engaged only in a Class I milk operation and normally do not maintain facilities for processing manufactured milk products. But from time to time, and particularly during the flush months, they (along with producers generally) produce milk in excess of their Class I needs. This is surplus milk and it must be disposed of through some other outlet. Such milk is available for Class I use at pool plants and, in view of the producer-handler's limited capacity for utilizing surplus, may be obtained by pool handlers at prices approximating the order Class II price.

Since the exemption of producer-handler Class I sales from market equalization is contingent upon the producer-handler assuming responsibility for handling his own surplus, it would not be appropriate to credit him with more than a surplus price for any surplus milk he delivers to pool plants. Pool handlers, therefore, should not be allowed to obtain such surplus milk for use in Class I unless a pool payment at the Class I price minus Class II price rate is assessed. Obviously, surplus milk purchased from producer-handlers for use in Class I has the same potential for creating disorderly marketing as milk from other sources recognizable as surplus. Also, as long as the producer-handler has the advantage of enjoying the full benefit of his own Class I sales customarily made on his own distribution routes, without pooling them with sales of producers, he should not also receive Class I benefit from the pool, at the expense of producers, for any of his milk which he is unable to sell in such way.

Such rate of payment on receipts by Federally-regulated handlers of milk from producer-handlers was ratified by Congress at the time provisions of the Agricultural Adjustment Act of 1933, as amended in 1935, authorizing the issuance of milk orders, were reenacted by the passage of the Agricultural Marketing Agreement Act of 1937. During the period between August 24, 1935, and June 3, 1937, the effective date of the latter Act, six Federal milk orders were issued under such Agricultural Adjustment Act. Two of such milk orders (Greater Kansas City, Missouri, and Fall River, Massachusetts, the latter, with enlargement of the marketing area, having been succeeded by the Southeastern New England order which is proposed to be amended as set forth herein), placed in effect during this period, contained provisions requiring handlers who used bulk milk received from producer-handlers in other than the lowest-priced classification to pay the difference between the class use price and the lowest class (surplus) price for such milk as part of the handler's total obligation for milk. Such payment was distributed, together with the classified value of producer milk of the handler, through the marketwide pool.[2]

As indicated previously herein, a distributing plant otherwise meeting the pooling requirements under any of the New England orders should be exempt from regulation if the route disposition in the marketing area from such plant does not exceed a daily average of 300 quarts for the month. Under such exempt status, however, the operator of this distributing plant would have a market position similar to that of a producer-handler in that he would retain for himself the full return from his sale of milk on routes in competition with pool handlers. It would be expected that this plant operator would have from time to time milk at his plant which is in excess of his Class I needs. Because of normally limited, or nonexistent, facilities in plants of this kind for processing manufactured milk products, the milk would be available for Class I use at pool plants. Therefore, milk received at pool plants from such exempt plants should be treated in the same manner as milk received from producer-handlers, i.e., the milk should be allocated first to Class II milk, with any balance thereof which must be allocated to Class I milk being subject to a pool payment at a rate equal to the difference between the Class I and Class II prices.

Another type of nonpool milk having a surplus value which may be used for Class I purposes is reconstituted milk (the result of combining, for instance, nonfat dry milk, or condensed milk, with water). Handlers frequently find it convenient to use reconstituted milk or additional milk solids in the processing of certain Class I products, such as flavored milk drinks or fortified milk or skim milk. Such milk or additional milk solids represent a relatively cheap source of milk for fluid milk products inasmuch as the milk solids used are manufactured from milk carrying a manufacturing, or surplus, value. It is recognized that the purchase price of the milk solids necessarily would be greater than the manufacturing price received by the dairy farmers supplying the milk from which the milk solids were derived because of the processing costs involved in making the nonfat dry milk or condensed milk. To recognize these processing costs in determining, under a program for fixing producer prices, the degree of price advantage which such milk solids have over producer milk for similar use, however, would be to allow at the expense of the producers' (pool) return the uneconomic manufacture of the milk solids ultimately reconstituted into Class I milk when the milk from which the solids were derived could have been used for Class I purposes in its original fluid form. In the New England orders, as is the practice generally under Federal regulation, such manufactured products are classified and priced as Class II milk. Thus, a payment into the producer-settlement fund on such milk at the difference between the Class I and Class II prices is necessary to insure price parity with producer milk when reconstituted milk is used in Class I.

Still other potential sources of nonpool milk in bulk for Class I purposes are described in the definition of "dairy farmer for other markets", as included in four of the New England orders (other than Connecticut). Under the Connecticut and Southeastern New England orders, loss of pool status for producer milk may arise in a very similar way under the provisions for "diversion" of milk, in the event the diversion exceeds the limits set by the provisions, thus likewise creating an additional source of nonpool milk. The general problem is illustrated by a description of the "dairy farmer for other markets" provision in the four orders.

Presently, the Boston, Springfield, Worcester, and Southeastern New England orders provide that a dairy farmer from whose farm milk is received at a handler's regulated plant shall not be a producer under the order with respect to such receipts if that handler caused nonpool milk to be moved from the same farm to another plant during the month. An exception is provided only if the milk received at the regulated plant represents a receipt of producer milk under the provisions of another Federal order. The same treatment, as a receipt from a "dairy farmer for other markets", also is accorded milk received at a pool plant from a dairy farmer's farm if the dealer who purchased the milk from the dairy farmer did not operate a regulated plant under the order in the same month.

Under these provisions the milk of a dairy farmer can lose producer milk

---

[2] Such payment was provided for in these orders in accordance with the provisions of section 8c of the Agricultural Adjustment Act of 1933, as amended on August 24, 1935, which was renumbered as section 608c upon reenactment on June 3, 1937, by the Agricultural Marketing Agreement Act of 1937.

7 U.S.C. section 672, which contains the codified language of section 4 of the Agricultural Marketing Agreement Act of 1937, as amended, states in paragraph (a) "Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with any such agreement, license or order which has been executed, issued, approved, or done under sections 601–608, 608a, 608b, 608c, 608d–612, 613, 614–619, 620, 623, 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed."

status at the option of the handler and become a receipt from a "dairy farmer for other markets" for the month even though all his milk was received only at Federal order plants during such month. Furthermore, if a dairy farmer becomes a "dairy farmer for other markets" for any of the months of July through November, any milk received from that farm by the same handler, or an affiliate of the handler, in any of the following months of December through June is also ineligible to be treated as producer milk.

In order to minimize the circumstances under which a producer will lose his producer status, the present "dairy farmer for other markets" provisions in the Boston, Springfield, Worcester, and Southeastern New England orders should be modified. At present a producer may lose status as such if he is transferred, at the option of the handler, from a plant in one Federal order market to a plant in another. The orders should provide that a producer will not lose such status and become a "dairy farmer for other markets" if all the nonpool milk which a dealer or handler purchased from him during the month was a receipt of producer milk under another Federal order.

As to producers who do become "dairy farmers for other markets", with resulting loss of producer status, the treatment accorded such milk under the New England orders should be similar to that which would be applicable if the milk were received at a pool plant as a transfer from the type of plant (i.e., non-Federally regulated supply-type or distributing-type plant) with which such dairy farmer is customarily associated for his market outlet. That is to say, on receipts assigned to Class I milk the payment rate would be the difference between the Class I and blend prices if the milk were associated with a non-Federally regulated supply-type plant located within 400 miles of Boston and the difference between the Class I and Class II prices if associated with a non-Federally regulated distributing-type plant located within this area.

Producers under the Connecticut and Southeastern New England orders lose pool status for their milk for an entire month when it is "overdiverted". In most instances the overdiversion represents milk which is diverted by the handler from his distributing plant. To minimize the circumstances under which he would lose pool status for his milk, the diversion provisions of the Connecticut and Southeastern New England orders should be amended to provide that when a producer's milk is diverted on more than the number of days specified that portion of his milk which is actually received at a pool plant during such month nevertheless shall remain eligible for pooling. A conforming change in the "dairy farmer for other markets" provision of the Southeastern New England order is necessary to implement the change in that order's diversion provisions.

Fluid milk products and cream sometimes appear in a handler's records which are not accounted for by apparent receipts at the plant. Such "overages", found in the quantities of Class I milk or Class II milk, indicate that the handler received or had available additional quantities of fluid milk products or cream over recorded receipts. Such additional quantities may represent, for instance, milk which was derived from reconstitution of nonfat dry milk. Recorded receipts may be less than actual receipts also because of inaccurate weighing or butterfat testing of milk which is received from producers and other sources. The identity of the source, however, cannot, or will not, be made known by the handler.

To achieve uniform treatment under each of the five orders, it is concluded that if a handler fails to establish any source for the quantity of fluid milk products or cream overaccounted for he should be charged at the class use value in his producer-settlement account. In the Boston, Springfield, and Worcester markets, the handler is charged at the appropriate Class I or Class II price, and is credited at a Class II price for the quantity of overage found in each class. In the Connecticut and Southeastern New England markets, the handler is also charged at class prices for the overage, but in these markets he does not receive a credit, thus becoming liable to the producer-settlement fund for overage at the full class use value. The latter application is appropriate for each market in the above circumstances since there is an apparent use of the milk but no offsetting receipt to which a specific value may be attached. However, should the handler subsequently disclose the source of the fluid milk products, appropriate adjustment resulting from corrected assignment of receipts to classes should be made.

Milk from other Federal orders. The present classification treatment of milk disposed of in the New England Federally regulated markets from plants regulated under other Federal orders outside New England should be modified. This will provide for integration into the regulatory plan of the New England orders of such milk disposed of in these markets.

Presently, receipts at plants regulated under the New England orders of packaged milk classified and priced as Class I milk from plants regulated under either a marketwide pool or an individual-handler pool Federal order are assigned to Class I milk at the receiving handler's plant. This arrangement should be continued under the New England orders.

Class I products moved in packaged form from a handler under one Federal order to the plant of a handler under another order normally represent a regular part of the Class I sales of the plant where they are packaged. Most intermarket movements of packaged products represent purchases of such milk specifically for route sales and the transferee-handler must develop such sales and maintain them on a continuing basis. The packaged Class I products often represent specialty items not processed in the receiving plant or milk in special packages which the receiving plant is not equipped to handle for processing.

Receipts at regulated distributing plants of bulk milk from plants regulated under a Federal order outside New England, on the other hand, presently are not accorded the full priority of assignment given packaged milk. To accommodate movements of milk among Federal order markets, however, the manner of assignment under the New England orders of such bulk milk should be changed.

The orders should provide that bulk fluid milk products received at a regulated distributing plant from a plant or bulk tank unit fully regulated under any Federal order for a marketing area located outside New England be assigned pro rata to the receiving plant's remaining utilization of milk in Class I and Class II, after assigning to Class I milk receipts of exempt milk, emergency milk (under the Greater Boston order), and packaged milk classified and priced as Class I milk under any Federal order, and after assigning to Class II milk, to the extent possible, receipts of milk from non-Federally regulated sources. Such proration procedure should not apply to bulk fluid milk products which are not classified and priced under the other Federal order or which are classified and priced under the other order in a class other than the highest use classification without regard to the class or classes to which the receipt is assigned under this order.

The assignment plan should be the same for nonpool milk received from markets regulated under Federal orders providing for either marketwide pooling or individual-handler pooling. In those instances, however, where the shipments of bulk or packaged fluid milk products to distributing plants regulated under the New England orders from the plant are of sufficient volume to qualify it as a pool supply plant, a plant otherwise regulated under an individual-handler pool Federal order should be pooled under the New England order to which the greatest quantity of fluid milk products was shipped. A corollary provision should be made for pooling under the appropriate New England order any distributing plant otherwise regulated under an individual-handler pool Federal order which meets the distributing plant pooling requirements of a New England order on the basis of its route disposition of Class I milk in the marketing area.

In any instance where the application of the marketwide pooling requirements of one of the New England orders to a particular plant conflicts with marketwide pooling requirements applicable under another order, the conflict must be resolved by pooling the plant under only one order. The present order provisions which resolve this conflict should be continued. The orders provide that a distributing-type plant be pooled in the Federal order market where it disposes of the most milk on routes. A supply-type plant is pooled under the other Federal order unless such order provides for the exclusion of the plant from regulation. In both cases, the pool funds derived from the milk handled at the plant are shared by all producers in the market where the plant is pooled.

In the circumstance where a plant qualifies as a pool plant under one of the New England orders and also qualifies as a pool plant under an individual-handler pool Federal order, conflict of marketwide pooling requirements that would make the plant equalize its sales in two markets is absent because the plant is not required to share its utilization with other plants in the individual-handler pool market. Unless such plant is included in the marketwide pool, the applicable regulation would fail to achieve its purpose of providing the stabilized marketing conditions which depend upon the marketwide sharing of the returns for the milk producers associated with the plant under the individual-handler pooling plan otherwise would be granted an opportunity for a price return from a Class I sale in the marketwide pool market not possible for the producers regularly supplying the latter market since the latter producers are returned the minimum blend price which reflects their proportionate sharing of the market's lower-valued reserve milk necessary to an adequate supply. In order that individual-handler pool orders may be coordinated with this plan for pooling in New England, some accommodation may be required in orders providing for individual-handler pools.

Special provision needs to be made in each of the New England orders for payment into the producer-settlement fund on bulk or packaged milk which is received at a regulated plant from a plant regulated under a Federal order providing for individual-handler pooling if such milk is assigned to Class I milk at the receiving plant. Also, such payments should be applicable to the route disposition of Class I milk in the marketing area from an individual-handler pool plant which is in excess of a daily average of 300 quarts per day during the month. The operator of the individual-handler pool plant should be allowed to offset such in-area route sales with purchases of milk classified and priced as Class I milk under a marketwide pool order, however. Such pool payments should be at the difference between the New England order's Class I and blend prices applicable at the location of the plant from which such milk was received or distributed. The payments should be made by the operator of the regulated plant receiving such milk or by the operator of the individual-handler pool plant from which such milk was distributed on routes, as the case may be.

This rate of payment is the same rate that applies to producer milk which is utilized as Class I milk and it thus treats a shipment of milk from an individual-handler pool market in a way similar to that provided for producer milk under the New England orders. Unless provision is made in the orders for the appropriate treatment of milk disposed of in these markets from an individual-handler pool plant, the operator of such plant could dispose of substantial quantities of nonpool milk as Class I milk in the New England markets, without becoming fully regulated under the New England orders, and improve his competitive position at little or no expense to himself.

In certain limited circumstances, milk orders with individual-handler pooling attain the ends of stabilized marketing conditions specified by the statute. Individual-handler pooling is not generally effective in achieving orderly marketing in markets where reserve supplies are concentrated in the hands of one or a few handlers, or where surpluses are relatively large. Because of their limited effectiveness, official notice is taken that only 13 marketing orders with individual-handler pooling are now in effect.

Individual-handler pooling also has limited capability of achieving marketing stability because such an order has virtually no regulatory effect upon a cooperative association in its capacity as a handler or operator of a milk plant. The statute authorizes cooperative associations to return the proceeds (whatever they are) received from the sale of milk in all markets to its own members without regard to the minimum class prices specified in the individual-handler pool order. Although a cooperative under this provision of the statute may not sell milk to regulated handlers at less than the class prices specified in the order, no particular provision is made with respect to the sale of milk to nonhandlers, such as the sale of milk to consumers. Thus, if a cooperative association accumulates quantities of milk beyond those that it can sell readily at normal prices, a special incentive arises for the cooperative to find some outlet where this excess may be disposed of at any price above its manufacturing value. It is especially advantageous if the outlet for this additional milk is outside of the cooperative's major market or area of disposal.

Proprietary handlers also face different incentives when they operate under individual-handler pooling than when they operate under marketwide pooling. Under individual-handler pooling, procurement advantages accrue to the individual handler who maintains a relatively high blended return to his own producers. Consequently, a proprietary handler who accumulates more than an average proportion of surplus milk is under competitive pressure either to reduce his purchases of milk from producers (usually by cutting off purchases from one or more producers) or by attempting to increase his Class I sales. One advantageous way to increase Class I sales is by reducing prices in some market outside of the handler's normal or major area of distribution.

It is not necessary to collect such a payment on milk from another Federal order with marketwide pooling. A payment at the difference between the Class I price and the blend price under the other Federal order, which would already have been made into the other marketwide pool, removes the incentive to reduce prices in order to enhance utilization of milk as Class I. Regulation of a cooperative or proprietary handler under one marketwide pool order, therefore, provides all of the safeguards that are necessary to insure orderly marketing conditions in the sale of such milk no matter where it is finally disposed of.

On occasion, bulk or packaged milk which has been classified and priced under another Federal order outside New England in a class other than Class I may be received at a distributing plant or a supply plant regulated under one of the New England orders. The orders now provide, as the means for integrating pricing provisions, that if such milk is subsequently assigned to Class I milk at the receiving plant the milk is subject to an interorder payment into the producer-settlement fund at the difference between the Class I and Class II prices. These provisions should be continued.

No change should be made for the present in the classification and assignment provisions relating to milk moved in bulk from one New England Federally-regulated market to another. The provisions of these orders regarding the transfers of such milk have been coordinated to reflect the intimate association of the five New England markets with one another, as evidenced by common class use prices, a generally common milkshed, overlapping route distribution among the markets, and frequent movements of bulk milk, often in substantial amounts, between markets. Such provisions have provided an appropriate basis of classification of bulk milk moved among the New England markets in the past. They are under further consideration in a subsequent hearing, however, in connection with a general review of the five New England orders as affected by marketing developments in this region. Any appropriate changes in such assignment provisions should take into account the evidence in the later hearing.

As to movements of fluid milk products from New England Federal order markets to Federally regulated markets outside New England, the orders are revised to provide that each of the New England markets will accept the classification assignment provided in the market to which the milk may be shipped. Such revision does not change, however, the present arrangement whereby milk moved from a Connecticut Federal order plant to a New York-New Jersey Federal order plant is assigned to Class II milk at the Connecticut plant, to the extent it is not assigned to Class I-B, if the milk is transferred or diverted in bulk or is transferred as a packaged fluid milk product containing at least three percent butterfat. The purpose of this revision is to facilitate the coordination among Federal orders of the classification and assignment of milk under such orders insofar as the scope of evidence in this hearing will permit. The provisions for interorder classification treatment are constructed to adapt to complementary revisions to other Federal orders outside New England as changes in other orders are made possible through the amendment process.

Administrative assessment. The expense of administration of each order should continue to be prorated among the handlers disposing of milk in the regulated market. Each order should provide that the administration expense

payment be applicable to all receipts of milk at a regulated plant, except (a) milk from other regulated plants under the order, (b) milk on which an administrative assessment is required under another Federal order, (c) certain "exempt" milk (in the case of the Greater Boston, Springfield and Worcester orders), and (d) other source milk not assigned to Class I milk (in the case of the Southeastern New England and Connecticut orders). Such payment should be applicable also to milk disposed of on routes in the marketing area from a "partially regulated distributing plant" on which payments into the producer-settlement fund are required. With respect to milk shipped to pool plants, or disposed of on routes in the market, from a plant not fully regulated under the order, it would be necessary normally to insure the accuracy of only the actual quantity of milk so marketed in the regulated area. A complete audit of the nonpool plant's utilization and payments to dairy farmers would not be necessary. Accordingly, the administrative assessment obligation should attach in this instance only to the quantity of milk actually moved to the pool plants or the quantity disposed of as in-area route sales on which pool payments are required.

Other changes in the order provisions as set forth herein are of a conforming nature to fully implement the proposed amendments described in the preceding discussion.

Issue No. 2. No change should be made in the Connecticut order's pooling requirements applicable to supply plants except that described under issue No. 1.

Three cooperative associations whose members regularly supply the Connecticut market proposed that during each of the months of July through November a supply plant (other than a supply plant of a cooperative eligible for automatic pooling) be required to ship at least 30 percent of its producer receipts to distributing plants under the Connecticut order to be pooled under such order. This would provide for the same pooling requirement as existed prior to the order amendments which became effective July 1, 1962. Such amendments now provide that a supply plant may be pooled if it makes qualifying shipments of at least 15 percent of its producer receipts to distributing plants under any or all the New England orders and ships a greater quantity to such plants under the Connecticut order than to such plants under any of the other New England orders.

Proponents contended that if adequate compensatory payment provisions are incorporated in the New England orders as a result of the hearing on which this decision is based, there would be no need to continue the 15 percent shipping requirement in the Connecticut order.

As indicated in the prior decision on which such pooling amendments were based, the shipping requirement of 30 percent in the Connecticut market was reduced to 15 percent on a combined market basis in order to reduce the opportunity for supply plants to be withdrawn from regulation under the New England orders and for unpriced milk to then be moved from such plants to these markets. (Official notice is taken of the decision concerning the five New England orders issued June 25, 1962 (27 F.R. 6161)). This was considered as one means of counteracting the problem of unpriced milk entering the New England markets for Class I purposes as brought about by the Supreme Court's decision previously described in these findings.

Proponents did not show that the present shipping requirement has had an adverse effect on marketing conditions in Connecticut. They, in fact, stated that the reduction in the shipping requirement of 30 percent to 15 percent had not been detrimental to Connecticut producers since such requirement became effective. Also, the hearing on which this decision is based did not provide adequate opportunity to fully consider the relationship of the shipping requirements under the Connecticut order with those of the other New England orders and to explore the possible impact upon New England marketing conditions generally if a different requirement as proposed for the Connecticut order were adopted under present circumstances.

With no apparent urgency involved in this matter, it is advisable that no action be taken on this proposal at the present time. Official notice is taken of the hearing on the New England orders which convened on January 7, 1963, providing the opportunity for full review of all provisions of such orders, including their pooling requirements.

Issue No. 3. The procedure for allocating at Connecticut pool plants receipts of certain fluid milk products from plants regulated under the New York-New Jersey Federal order should be revised.

Connecticut producer associations proposed that certain Class III products under the New York-New Jersey order, such as flavored milk drinks, buttermilk, dietary products, and other similar products containing less than three percent butterfat, received at Connecticut plants in bulk or packaged form from New York-New Jersey plants be assigned to Class II milk rather than to Class I milk as is presently done under most circumstances. Proponents stated that in the absence of compensatory payments such a procedure would reduce the opportunity for Connecticut handlers to gain a price advantage by purchasing these products at New York-New Jersey Class III prices for Class I sale in the Connecticut market.

Products such as flavored milk drinks, buttermilk and dietary products disposed of from New York-New Jersey plants outside the New York Metropolitan district are classified as Class III milk under that order. The Connecticut order, however, like the other New England orders, classifies such products as Class I milk when disposed of in fluid form. The Connecticut order now provides that any fluid milk products received at regulated plants in packaged form from other Federal order plants shall be assigned to Class I milk. Such receipts in bulk form are assigned to any available Class II milk before assignment of producer receipts. During the months of July through November, however, up to 15 percent of producer receipts are "set aside" for assignment to Class II milk prior to the assignment of bulk receipts from other Federal order plants. If any other Federal order milk not classified as Class I milk under the other order is assigned to Class I milk under the Connecticut order, the Connecticut handler must pay to the producer-settlement fund a price differential on the quantity so assigned equal to the difference between the Connecticut Class I and Class II prices.

Since such products disposed of in Connecticut by New York-New Jersey plants are Class III products under the New York-New Jersey order, handlers under that order pay their producers only the Class III price (which corresponds to the Class II price under the Connecticut order) for milk used in these products. Such handlers thus could make these products available to Connecticut plants at prices less than the Connecticut Class I price. If Connecticut handlers could purchase these products from New York-New Jersey handlers with no further obligation under the Connecticut order, such purchases would be encouraged. This would have an adverse effect upon the competitive position of any Connecticut handler who continued the purchase of milk for use in these products at the Class I price under the Connecticut order and would tend to diminish a Class I outlet for Connecticut producers.

It is necessary, therefore, that the order continue to provide for a price differential at the difference between the Class I and Class II prices on the New York-New Jersey Class III products assigned to Class I at the Connecticut plants. It is concluded, however, that these products, packaged or in bulk, should be assigned to any available Class II milk at the Connecticut handler's plant in order to hold to the minimum the quantity of such products subject to such price differential. In this manner a uniform price level will apply to such products distributed by all handlers under the Connecticut order.

It was proposed also by the Connecticut market cooperatives that in allocating receipts of milk to classes under the Connecticut order no Class II shrinkage on direct-delivered producer milk and on bulk milk received from other pool plants should be "set aside" for specific assignment to producer milk. They maintained that this procedure for assignment of such shrinkage facilitates the assignment of nonpool milk to Class I when needed as a supplementary supply to cover shortages of producer milk and, on this premise, contended that since pool supplies are now adequate, even during the months of normally short supply, such a procedure is no longer desirable.

To provide greater uniformity under the New England orders in the allocation of nonproducer milk and producer milk, it is appropriate to remove the shrinkage set aside under the Connecticut order. This deletion also will tend to minimize the application of payments into the producer-settlement fund on nonproducer milk assigned to Class I milk under such order. Appropriate changes are con-

tained in the attached order amendments.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreements upon which a hearing has been held.

Recommended marketing agreements and orders amending the orders. The following orders amending the orders, as amended, regulating the handling of milk in the Greater Boston, Springfield, and Worcester, Massachusetts, Southeastern New England and Connecticut marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended:

Amendments to Greater Boston order provisions. 1. In § 1001.2, paragraphs (d) and (h)(1) are revised to read as follows:

§ 1001.2 Definitions of persons.

* * * * *

(d) "Dairy farmer for other markets" means any person described in subparagraph (1), (2), or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to a regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer if all such nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(3) Any dairy farmer with respect to any of the months of December through June in which his milk is received by a handler at a regulated plant from a farm from which the handler received nonpool milk during any of the preceding months of July through November at a plant which is a nonpool plant under any Federal order in such current month of December through June, except that the term shall not apply if all such nonpool milk was a receipt of producer milk under another Federal order or represented receipts from own production by a producer-handler under any Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(5) Receipts from each dairy farmer for other markets shall be considered as receipts from the plant to which he ordinarily delivered.

* * * * *

(h) "Handler" means (1) any person who, during the month, operates a pool plant; or who operates any other plant, or pool bulk tank unit under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area; or

2. In § 1001.3, paragraphs (e) through (i) are revised and new paragraphs (j) and (k) are added to read as follows:

§ 1001.3 Definitions of plants.

* * * * *

(e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 1001.20 and 1001.21, except a plant fully regulated under another Federal order providing for marketwide pooling, the plant of a producer-handler under any Federal order, or a plant from which emergency milk is received.

(f) "Regulated distributing plant" means any processing and packaging plant (other than the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month which is not less than 10 percent of its total receipts of fluid milk products and with total Class I disposition in the month or in either of the two preceding months which is not less than 40 percent of its total receipts of fluid milk products in the corresponding month, and from which a greater proportion of its Class I milk was disposed of on routes in this marketing area in the month than was so disposed of in any other marketing area defined under another Federal order providing for marketwide pooling: *Provided,* That a plant which meets these requirements shall not qualify as a regulated distributing plant pursuant to this paragraph if the route disposition in this marketing area from the plant does not exceed a daily average of 300 quarts for the month.

(g) "Regulated plant" means any pool plant or any regulated distributing plant.

(h) "Supply plant" means any receiving plant (other than a pool plant, on the basis of its route disposition, under the provisions of this or any other Federal order providing for marketwide pooling) from which fluid milk products are shipped to a regulated distributing plant.

(i) "Other Federal order plant" means a pool plant or a pool bulk tank unit under another Federal order, or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal order.

(j) "Distributing plant for unregulated markets" means any processing and packaging plant, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (f) of this section, or a producer-handler's plant under any Federal order, from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month.

(k) "Partially regulated distributing plant" means any processing and packaging plant with route disposition in the marketing area, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (f) of this section, or a producer-handler's plant under any Federal order.

3. In § 1001.4, paragraph (i) is revoked and a new paragraph (i) is added to read as follows:

§ 1001.4 Definitions of milk and milk products.

* * * * *

(i) "Pool milk" means: (1) Producer milk;

(2) The following receipts of fluid milk products at regulated plants, ex-

clusive of exempt milk, emergency milk, receipts from regulated plants, receipts from producer-handlers' plants under any Federal order, receipts from plants described in the proviso in § 1001.3(f), and receipts from other Federal order plants which were classified and priced under the other Federal order:

(i) Receipts at regulated distributing plants from plants located more than 400 miles from Boston;

(ii) Receipts at regulated plants, other than regulated distributing plants, to the extent assigned to Class I milk pursuant to § 1001.25(f), from plants located more than 400 miles from Boston; and

(iii) Receipts at regulated plants, to the extent assigned to Class I milk pursuant to § 1001.25(f), from plants located not more than 400 miles from Boston, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(3) Receipts of fluid milk products at regulated plants, to the extent assigned to Class I milk pursuant to § 1001.25 (c), (g) and (l), from plants fully regulated under a Federal order providing for individual-handler pooling; and

(4) Net route disposition in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling in excess of a daily average of 300 quarts for the months after deducting from the total route disposition in the marketing area from such plant the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order providing for marketwide pooling: *Provided*, That the receipts of priced milk used to offset route disposition in this marketing area shall not be used to offset route disposition in any other Federal marketing area.

[§ 1001.12 Revision]

4. In § 1001.12(c), the reference "1001.72" is revised to "1001.78".

4(a). In § 1001.16, paragraphs (d), (e), and (f) are revised to read as follows:

§ 1001.16 Classification of fluid milk products moved to other plants.

* * * * *

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a fully regulated plant under any Federal order except a fully regulated plant under the Springfield or Worcester order;

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a plant to which movements of bulk fluid milk products are subject to classification under the preceding paragraphs of this section; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a fully regulated plant under any Federal order and thence to another plant located outside the New England States and New York State.

5. In § 1001.20, the second sentence of the introductory text and all of paragraph (e) are deleted, paragraph (f) is redesignated as paragraph (e), and paragraph (a) is revised to read as follows:

§ 1001.20 Basic pooling requirements.

* * * * *

(a) It is a regulated distributing plant.

6. Section 1001.21 is revised to read as follows:

§ 1001.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any month in the period of December through June, regardless of whether any fluid milk products are shipped to regulated distributing plants during the month, if it was a supply-type pool plant in each of the preceding months of July through November, or if it would have been a supply-type pool plant in each of such months had it not been a pool plant under another New England Federal order and the market administrator has received the handler's written request for such automatic status for the plant on or before the 16th day of the month, unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this order;

(2) The automatic pool plant status of the plant for such month is revoked pursuant to paragraph (d) of this section; or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to regulated distributing plants during the month, if it was a supply-type pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this order than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which its automatic pool plant status is revoked pursuant to paragraph (d) of this section.

(c) Any supply plant, except a plant which has automatic pool plant status for the month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it either has automatic pool plant status under another New England Federal order or makes a greater quantity of qualifying shipments of fluid milk products to plants subject to another New England Federal order than to regulated distributing plants under this order and meets all of the other applicable conditions and requirements for pool plant status under such other order.

(d) The automatic pool plant status of any supply plant shall be revoked for any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request for revocation of such status for that month.

(e) A supply plant shall be a nonpool plant in any month for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month if:

(1) All of the fluid milk products received at regulated plants from such plant during the month are assigned to Class II milk pursuant to § 1001.26; and

(2) The plant meets all of the conditions and requirements for pool plant status under another New England Federal order in such month.

7. Section 1001.25 is revised to read as follows:

§ 1001.25 Assignment of receipts at regulated plants to Class I milk and Class II milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence, except as otherwise provided in this section:

(a) Receipts of exempt milk;

(b) Receipts of emergency milk eligible for assignment to Class I milk pursuant to § 1001.27;

(c) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order;

(d) Receipts from other handlers' regulated plants of packaged fluid milk products;

(e) Receipts from the following sources shall be assigned next, in sequence, to each class, beginning with the handler's Class II milk:

(1) Receipts or other available quantities of milk products, whether or not originally derived from producer milk, which are combined with or converted into fluid milk products. In the case of milk products reconstituted into fluid milk products, the quantity considered as received shall be the fluid milk products equivalent of such milk products;

(2) Inventory of fluid milk products on hand at the beginning of the month;

(3) Receipts of fluid milk products from producer-handlers under any Federal order and from plants described in the proviso in § 1001.3(f), in sequence beginning with the receipts from the plant most distant from Boston according to its zone location; and

(4) Receipts of bulk fluid milk products at regulated plants from distributing plants for unregulated markets located not more than 400 miles from Boston, in sequence beginning with the receipts from the plant most distant from Boston according to its zone location;

(f) Receipts of fluid milk products from the following sources shall be assigned next to each class, beginning with the handler's remaining Class II milk, in sequence beginning with the receipts from the plant most distant from Boston according to its zone location: *Provided*, That receipts from regulated plants, receipts from producer-handlers under any Federal order, receipts from other Federal order plants of fluid milk products classified and priced under the other order, and receipts from plants described in the proviso in § 1001.3(f) shall not be assigned under this subparagraph:

(1) Receipts at regulated plants, other than regulated distributing plants, from plants located more than 400 miles from Boston; and

(2) Receipts at regulated plants from plants located not more than 400 miles from Boston, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(g) Receipts of bulk fluid milk products at regulated distributing plants from other Federal order plants not regulated under any New England Federal order, if classified and priced as Class I milk under the other Federal order or subject to such classification and pricing if assigned to Class I milk under this order. Such receipts shall be assigned pro rata to the remaining respective quantities of Class I milk and Class II milk at the regulated distributing plant at which such milk was received.

(h) Receipts from other handlers' regulated plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers;

(i) Receipts of pool milk, except receipts assigned pursuant to paragraphs (c), (f), (g) and (l) of this section;

(j) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk pursuant to paragraph (h) of this section;

(k) Receipts of bulk fluid milk products from fully regulated plants under other New England Federal orders. If there are receipts from more than one such Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of route disposition in such market by the handler;

(l) Receipts of bulk fluid milk products at regulated plants, other than regulated distributing plants, from other Federal order plants not regulated under any New England Federal order, if classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order; and

(m) Receipts not assigned previously to Class I milk or Class II milk pursuant to this section of fluid milk products from other Federal order plants.

7A. A new § 1001.28 is added to read as follows:

§ 1001.28 Overage.

Any quantities of Class I milk or Class II milk remaining after the assignment of receipts to classes pursuant to §§ 1001.25 and 1001.26 shall be known as "overage".

8. Sections 1001.30 and 1001.31 are revised to read as follows:

§ 1001.30 Reports of pool handlers, and of nonpool handlers with route disposition in the marketing area.

(a) On or before the 8th day after the end of each month, each pool handler, and any other handler who operates a plant from which fluid milk products are disposed of on routes in the marketing area, shall file with the market administrator a report of his receipts and utilization of milk and milk products for the month. The report shall be in the detail and form prescribed by the market administrator, and shall contain the following information:

(1) The receipts of pool milk at each plant, including the quantity, if any, received from the handler's own production;

(2) The receipts of fluid milk products and cream at each plant from any other handler, assigned to classes pursuant to §§ 1001.25 to 1001.27;

(3) The receipts at each plant of fluid milk products and cream from all other sources; and

(4) The respective quantities which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 1001.15 to 1001.17.

(b) Within five days after the first receipt at his regulated plant of fluid milk products during the month from each plant which is neither a fully regulated plant nor a producer-handler's plant under any New England Federal order, each handler shall file with the market administrator a report showing the identity of the operator of the shipping plant, the plant location, the quantities of bulk and of packaged fluid milk products received, and such other information respecting any such receipt as the market administrator may require.

§ 1001.31 Reports of other handlers.

Each handler who does not operate a regulated plant, or any other plant from which fluid milk products are disposed of on routes in the marketing area, shall file with the market administrator reports relating to his receipts and utilization of milk and milk products at the time and in the manner prescribed by the market administrator.

9. A new § 1001.39 is added to read as follows:

§ 1001.39 Reports of receipts from dairy farmers at plants supplying or distributing pool milk other than producer milk.

For any month in which it is claimed that the farms of some of the dairy farmers from whom he received milk are located in a farm location differential area, each handler from whose plant pool milk other than producer milk is moved to a regulated plant, and each handler who distributes pool milk on routes in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling, shall file with the market administrator a report showing the name, post office address, and farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 10 days after the market administrator's request made not earlier than the 20th day after the end of the month.

10. In § 1001.42 the introductory text is revised to read as follows:

§ 1001.42 Zone price differentials.

The prices determined pursuant to §§ 1001.40, 1001.41, and 1001.51 shall be subject to zone price differentials based upon the zone location of the plant at which producer milk is received; and upon the zone location of the plant from which pool milk other than producer milk is received or distributed.

11. Section 1001.43 is revised to read as follows:

§ 1001.43 Determination of zone locations of pool milk assigned to Class I milk.

For the purpose of determining the respective quantities of pool milk which are subject to the various zone price differentials, the total quantity of each handler's receipts assigned to Class I milk pursuant to § 1001.25(i) shall be considered to have originated at sources in the sequence and to the extent set forth in this section:

(a) Receipts of producer milk at the handler's city plant;

(b) Receipts of producer milk at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of:

(1) As route disposition in Maine, New Hampshire, and Vermont; and

(2) To unregulated plants from which no fluid milk products were disposed of as Class I milk, either directly or indirectly, outside the States of Maine, New Hampshire, and Vermont; and

(c) Remaining receipts of fluid milk products from all sources after deducting all receipts assigned to Class I milk pursuant to § 1001.25 except the quantity assigned pursuant to § 1001.25(i). The allocation of such remaining receipts shall be made in the order of the nearness of the originating plants to Boston according to their zone locations. The quantity determined for the zone location of any of the handler's country pool plants shall be the lesser of its receipts of producer milk or its shipments of fluid milk products reduced by its shipments of fluid milk products to plants located in the States of Maine, New Hampshire, Vermont, or New York for which utilization as Class II milk is established.

12. The center head "Blended Prices to Producers" preceding § 1001.50 is revised to "Blended Prices", and §§ 1001.50 and 1001.51 are revised to read as follows:

§ 1001.50 Computation of the value of fluid milk products for each handler.

For each month, the market administrator shall compute the value of fluid milk products for each handler who is not a producer-handler under any Federal order as follows:

(a) Multiply the quantity of fluid milk products assigned to Class I milk pursuant to § 1001.25(e) (1) and (2), by the price pursuant to §§ 1001.40 to 1001.42 for the zone location of the handler's regulated plant nearest to Boston;

(b) Multiply the quantities of fluid milk products assigned to Class I milk pursuant to § 1001.25(e) (3) and (4) and (m), by the prices pursuant to §§ 1001.40 and 1001.42 for the zone locations of the plants from which such fluid milk products were received;

(c) Multiply the quantities of pool milk assigned to Class I milk pursuant to § 1001.25 (c), (f), (g) and (l), by the prices pursuant to §§ 1001.40 and 1001.42 for the zone locations of the plants from which such fluid milk products were received;

(d) Multiply the quantities of pool milk assigned to Class I milk pursuant to § 1001.25(i), by the prices pursuant to §§ 1001.40 and 1001.42 for zone locations determined pursuant to § 1001.43;

(e) Multiply the quantity of pool milk disposed of on routes in the marketing area from the handler's partially regulated distributing plant or the handler's plant which is fully regulated under a Federal order providing for individual-handler pooling, by the price pursuant to §§ 1001.40 and 1001.42 for the zone location of the plant;

(f) Multiply the quantities of pool milk at plants in each zone, less the quantities priced in each zone pursuant to paragraphs (c), (d), and (e) of this section, by the prices pursuant to §§ 1001.41 and 1001.42;

(g) Multiply the quantity of overage in each class computed pursuant to § 1001.28 by the prices pursuant to §§ 1001.40, 1001.41, and 1001.42 for the zone location of the handler's regulated plant nearest to Boston;

(h) Multiply the quantity of fluid milk products assigned to Class I milk pursuant to § 1001.25(e) (1) and (2), by the price pursuant to §§ 1001.41 and 1001.42 for the zone location of the handler's regulated plant nearest to Boston;

(i) Multiply the quantities of fluid milk products assigned to Class I milk pursuant to § 1001.25(e) (3) and (4) and (m), by the prices pursuant to §§ 1001.41 and 1001.42 for the zone locations of the plants from which such fluid milk products were received; and

(j) Add together the amounts resulting from the computations described in paragraphs (a) through (g) of this section and subtract therefrom the sum of the amounts resulting from the computations described in paragraphs (h) and (i) of this section. The remainder shall be known as the value of fluid milk products.

§ 1001.51 Computation of the basic blended price.

For each month, the market administrator shall compute the basic blended price per hundredweight as follows:

(a) Combine into one total the respective values of fluid milk products computed pursuant to § 1001.50 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the reports prescribed in § 1001.30 for such month and the payments required pursuant to § 1001.72(a) for the preceding month;

(b) Add the amount of the unreserved balance of the producer settlement fund as at the close of business on the 10th day after the end of the month;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to §§ 1001.64 and 1001.75;

(d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in the producer settlement fund. The resulting price is the blended price for milk containing 3.7 percent butterfat received from producers at plants located in Zone 21, and shall be known as the basic blended price.

13. The center head "Payments for milk" preceding § 1001.60 is revised to read "Payments by handlers directly to producers".

14. In § 1001.60, the title is revised to read "Advance payments to producers".

15. Section 1001.61 is revised to read as follows:

§ 1001.61 Final payments to producers.

On or before the 20th day after the end of each month, each pool handler shall make payment to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 1001.63 and 1001.64, for the quantity of milk delivered by such producer.

16. Section 1001.62 is revised to read as follows:

§ 1001.62 Adjustment of errors in payments to producers.

Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 1001.61, the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

17. In the introductory text of § 1001.64, the reference "1001.61(a)" is revised to "1001.61".

18. Section 1001.65 is revoked.

19. In § 1001.66(a), the reference "1001.61(a)" is revised to "1001.61".

20. The provisions formerly contained in § 1001.67 are now contained in § 1001.74 and § 1001.67 is deleted, and the reference "1001.61, 1001.62, and 1001.65" therein is revised to "1001.72 and 1001.73".

21. The provisions formerly contained in § 1001.70 are now contained in § 1001.67 and § 1001.70 is deleted, and the reference "1001.61(a)" therein is revised to "1001.61".

22. In § 1001.68, the reference "1001.61 (a)" in the introductory text and in paragraph (c) is revised to "1001.61", and the reference "1001.70" in paragraph (e) is revised to "1001.67".

23. The center head "Marketing services" preceding § 1001.70 is deleted.

24. The center head "Administration expense" preceding § 1001.72 is relocated to precede § 1001.78 and the provisions formerly contained in § 1001.72 are now contained in § 1001.78 and § 1001.72 is deleted. The new § 1001.78 is revised to read as follows:

§ 1001.78 Payments of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 3 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe. In the case of regulated plants, the payment shall apply to all the handler's receipts during the month of fluid milk products from all sources, except receipts from regulated plants, receipts from other Federal order plants if such receipts were subject to an administration expense assessment under the other order, receipts of emergency milk, and receipts of exempt milk processed at plants other than regulated plants. In the case of partially regulated distributing plants, the payment shall apply to the quantity of pool milk at such plant for which a value is determined pursuant to § 1001.50(e).

25. The center head "obligations" preceding § 1001.73 is relocated to precede § 1001.79 and the provisions formerly contained in § 1001.73 are now contained in § 1001.79 and § 1001.73 is deleted.

26. A new center head "Producer settlement fund and its operation" is added to precede § 1001.70 and new §§ 1001.70 through 1001.73 and § 1001.75 are added to read as follows:

PRODUCER SETTLEMENT FUND AND ITS OPERATION

§ 1001.70 Producer settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers, and out of which he shall make all payments to handlers, pursuant to §§ 1001.72, 1001.73, and 1001.74.

§ 1001.71 Handler's pool debit or pool credit.

On or before the 15th day after the end of each month the market administrator shall render a statement to each handler showing the amount of such handler's pool debit or pool credit, which shall be computed as follows:

(a) Multiply the quantities of pool milk by the basic blended price computed pursuant to § 1001.51, adjusted by the plant and farm location differentials provided in §§ 1001.64 and 1001.75;

(b) If the value of the handler's fluid milk products as determined pursuant to § 1001.50 is greater than the result obtained pursuant to paragraph (a) of this section, the difference shall be such handler's pool debit; and

(c) If the value of the handler's fluid milk products as determined pursuant to

§ 1001.50 is less than the result obtained pursuant to paragraph (a) of this section, the difference shall be such handler's pool credit.

§ 1001.72 Payments to or out of the producer-settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall make payment to the market administrator of the amount of the handler's pool debit for the month as determined pursuant to § 1001.71(b).

(b) On or before the 20th day after the end of the month, the market administrator shall make payment to each handler of the amount of the handler's pool credit for the month as determined pursuant to § 1001.71(c).

§ 1001.73 Adjustment of errors.

Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to § 1001.72, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

§ 1001.75 Location differentials applicable to pool milk other than producer milk.

With respect to pool milk, other than producer milk, the basic blended price shall be subject to the zone price differential set forth in Column C of the table in § 1001.42 for the zone location of the plant from which such milk was received or distributed, and to further differentials computed as follows:

Divide the respective quantities of milk received at the plant directly from dairy farmers' farms located in each farm location differential area described in § 1001.64 by the total receipts of fluid milk products at the plant, multiply by 100, and apply each of the resulting percentages to the total quantity of pool milk other than producer milk received or distributed from the plant. The results are the respective quantities of such milk to which the farm location differentials specified in § 1001.64 (a) and (b) shall apply: *Provided,* That until such time as full information relative to all receipts at the plant, including the respective quantities of milk received directly from dairy farmers' farms in each farm location differential area, is submitted to the market administrator it shall be considered that none of the farms from which milk was received at the plant is located in a farm location differential area.

Amendments to Springfield order provisions. 1. In § 1006.2, paragraphs (d) and (h)(1) are revised to read as follows:

§ 1006.2 Definitions of persons.

* * * * *

(d) "Dairy farmer for other markets" means any person described in subparagraph (1), (2), or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to a regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer if all such nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(3) Any dairy farmer with respect to any of the months of December through June in which his milk is received by a handler at a regulated plant from a farm from which the handler received nonpool milk during any of the preceding months of July through November at a plant which is a nonpool plant under any Federal order in such current month of December through June, except that the term shall not apply if all such nonpool milk was a receipt of producer milk under another Federal order or represented receipts from own production by a producer-handler under any Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(5) Receipts from each dairy farmer for other markets shall be considered as receipts from the plant to which he ordinarily delivered.

* * * * *

(h) "Handler" means (1) any person who, during the month, operates a pool plant; or who operates any other plant, or pool bulk tank unit under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area; or

2. In § 1006.3, paragraphs (e) through (i) are revised and new paragraphs (j) and (k) are added to read as follows:

§ 1006.3 Definitions of plants.

* * * * *

(e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 1006.20 and 1006.21, except a plant fully regulated under another Federal order providing for marketwise pooling or the plant of a producer-handler under any Federal order.

(f) "Regulated distributing plant" means any processing and packaging plant (other than the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month which is not less than 10 percent of its total receipts of fluid milk products and with total Class I disposition in the month or in either of the two preceding months which is not less than 40 percent of its total receipts of fluid milk products in the corresponding month, and from which a greater proportion of its Class I milk was disposed of on routes in this marketing area in the month than was so disposed of in any other marketing area defined under another Federal order providing for marketwide pooling: *Provided,* That a plant which meets these requirements shall not qualify as a regulated distributing plant pursuant to this paragraph if the route disposition in this marketing area from the plant does not exceed a daily average of 300 quarts for the month.

(g) "Regulated plant" means any pool plant or any regulated distributing plant.

(h) "Supply plant" means any receiving plant (other than a pool plant, on the basis of its route disposition, under the provisions of this or any other Federal order providing for marketwide pooling) from which fluid milk products are shipped to a regulated distributing plant.

(i) "Other Federal order plant" means a pool plant or a pool bulk tank unit under another Federal order, or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal order.

(j) "Distributing plant for unregulated markets" means any processing and packaging plant, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (f) of this section, or a producer-handler's plant under any Federal order, from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month.

(k) "Partially regulated distributing plant" means any processing and packaging plant with route disposition in the marketing area, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (f) of this section, or a producer-handler's plant under any Federal order.

3. In § 1006.4, paragraph (i) is revoked and a new paragraph (i) is added to read as follows:

§ 1006.4 Definitions of milk and milk products.

* * * * *

(i) "Pool milk" means: (1) Producer milk;

(2) The following receipts of fluid milk products at regulated plants, exclusive of exempt milk, receipts from regulated plants, receipts from producer-handlers' plants under any Federal order, receipts from plants described in the proviso in § 1006.3(f), and receipts from other Federal order plants which were

classified and priced under the other Federal order:

(i) Receipts at regulated distributing plants from plants located more than 400 miles from Boston, Massachusetts;

(ii) Receipts at regulated plants, other than regulated distributing plants, to the extent assigned to Class I milk pursuant to § 1006.25(e), from plants located more than 400 miles from Boston, Massachusetts; and

(iii) Receipts at regulated plants, to the extent assigned to Class I milk pursuant to § 1006.25(e), from plants located not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(3) Receipts of fluid milk products at regulated plants, to the extent assigned to Class I milk pursuant to § 1006.25(b), (g), and (o), from plants fully regulated under a Federal order providing for individual-handler pooling; and

(4) Net route disposition in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling in excess of a daily average of 300 quarts for the month after deducting from the total route disposition in the marketing area from such plant the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order providing for marketwide pooling: *Provided,* That the receipts of priced milk used to offset route disposition in this marketing area shall not be used to offset route disposition in any other Federal marketing area.

4. In § 1006.12(c), the reference "1006.72" is revised to "1006.78".

4(a). In § 1006.16, paragraphs (d), (e), and (f) are revised to read as follows:

§ 1006.16 Classification of fluid milk products moved to other plants.

* * * * *

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a fully regulated plant under another Federal order;

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a plant to which movements of bulk fluid milk products are subject to classification under the preceding paragraphs of this section; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a fully regulated plant under any Federal order and thence to another plant located outside the New England States and New York State.

5. In § 1006.20, paragraph (a) is revised to read as follows:

§ 1006.20 Basic pooling requirements.

* * * * *

(a) It is a regulated distributing plant.

6. Section 1006.21 is revised to read as follows:

§ 1006.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any month in the period December through June, regardless of whether any fluid milk products are shipped to regulated distributing plants during the month, if it was a supply-type pool plant in each of the preceding months of July through November, or if it would have been a supply-type pool plant in each of such months had it not been a pool plant under another New England Federal order and the market administrator has received the handler's written request for such automatic status for the plant on or before the 16th day of the month, unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this order;

(2) The automatic pool plant status of the plant for such month is revoked pursuant to paragraph (d) of this section; or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to regulated distributing plants during the month, if it was a supply-type pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this order than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which its automatic pool plant status is revoked pursuant to paragraph (d) of this section.

(c) Any supply plant, except a plant which has automatic pool plant status for the month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it either has automatic pool plant status under another New England Federal order or makes a greater quantity of qualifying shipments of fluid milk products to plants subject to another New England Federal order than to regulated distributing plants under this order and meets all of the other applicable conditions and requirements for pool plant status under such other order.

(d) The automatic pool plant status of any supply plant shall be revoked for any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request for revocation of such status for that month.

7. Section 1006.25 is revised to read as follows:

§ 1006.25 Assignment of receipts at regulated plants to Class I milk and Class II milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence, except as otherwise provided in this section:

(a) Receipts of exempt milk;

(b) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order;

(c) Receipts from other handlers' regulated plants of packaged fluid milk products;

(d) Receipts from the following sources shall be assigned next, in sequence, to each class, beginning with the handler's Class II milk:

(1) Receipts or other available quantities of milk products, whether or not originally derived from producer milk, which are combined with or converted into fluid milk products. In the case of milk products reconstituted into fluid milk products, the quantity considered as received shall be the fluid milk products equivalent of such milk products;

(2) Inventory of fluid milk products on hand at the beginning of the month;

(3) Receipts of fluid milk products from producer-handlers under any Federal order and from plants described in the proviso in § 1006.3(f), in sequence beginning with the receipts from the plant most distant from Springfield according to its zone location; and

(4) Receipts of bulk fluid milk products at regulated plants from distributing plants for unregulated markets located not more than 400 miles from Boston, Massachusetts, in sequence beginning with the receipts from the plant most distant from Springfield according to its zone location;

(e) Receipts of fluid milk products from the following sources shall be assigned next to each class, beginning with the handler's remaining Class II milk, in sequence beginning with the receipts from the plant most distant from Springfield according to its zone location: *Provided,* That receipts from regulated plants, receipts from producer-handlers under any Federal order, receipts from other Federal order plants of fluid milk products classified and priced under the other order, and receipts from plants described in the proviso in § 1006.3(f) shall not be assigned under this paragraph:

(1) Receipts at regulated plants, other than regulated distributing plants, from plants located more than 400 miles from Boston, Massachusetts; and

(2) Receipts at regulated plants from plants located not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(f) Receipts from regulated plants under the Boston order of bulk fluid milk products classified as Class I milk under the Boston order;

(g) Receipts of bulk fluid milk products at regulated distributing plants from other Federal order plants not regulated

under any New England Federal order, if classified and priced as Class I milk under the other Federal order or subject to such classification and pricing if assigned to Class I milk under this order. Such receipts shall be assigned pro rata to the remaining respective quantities of Class I milk and Class II milk at the regulated distributing plant at which such milk was received.

(h) Receipts from other handlers' regulated city plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers;

(i) Receipts of producer milk at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of outside the marketing area without being received at a city plant;

(j) Receipts of producer milk at the handler's city plant;

(k) Receipts from other handlers' regulated country plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers, in the order of the nearness of the originating plants to Springfield according to their zone locations;

(l) Remaining receipts of producer milk at the handler's country pool plants and of pool milk not producer milk, exclusive of receipts of pool milk from plants fully regulated under a Federal order providing for individual-handler pooling, in sequence beginning with the receipts of producer milk at the country pool plant, or the receipts of pool milk not producer milk from the plant from which received, as the case may be, which is nearest to Springfield according to its zone location;

(m) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraphs (h) and (k) of this section, in the order of the nearness of the originating plants to Springfield according to their zone locations;

(n) Receipts from fully regulated plants under other New England Federal orders of bulk fluid milk products not assigned to Class I milk pursuant to paragraph (f) of this section, if classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order. If there are receipts from more than one such Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of route disposition in such market by the handler;

(o) Receipts of bulk fluid milk products at regulated plants, other than regulated distributing plants, from other Federal order plants not regulated under any New England Federal order, if classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order; and

(p) Receipts not assigned previously to Class I milk or Class II milk pursuant to this section of fluid milk products from other Federal order plants.

7A. A new § 1006.27 is added to read as follows:

§ 1006.27 Overage.

Any quantities of Class I milk or Class II milk remaining after the assignment of receipts to classes pursuant to §§ 1006.25 and 1006.26 shall be known as "overage".

8. Sections 1006.30 and 1006.31 are revised to read as follows:

§ 1006.30 Reports of pool handlers, and of nonpool handlers with route disposition in the marketing area.

(a) On or before the 8th day after the end of each month, each pool handler, and any other handler who operates a plant from which fluid milk products are disposed of on routes in the marketing area, shall file with the market administrator a report of his receipts and utilization of milk and milk products for the month. The report shall be in the detail and form prescribed by the market administrator, and shall contain the following information:

(1) The receipts of pool milk at each plant, including the quantity, if any, received from the handler's own production;

(2) The receipts of fluid milk products and cream at each plant from any other handler, assigned to classes pursuant to §§ 1006.25 and 1006.26;

(3) The receipts at each plant of fluid milk products and cream from all other sources; and

(4) The respective quantities which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 1006.15 to 1006.17.

(b) Within five days after the first receipt at his regulated plant of fluid milk products during the month from each plant which is neither a fully regulated plant nor a producer-handler's plant under any New England Federal order, each handler shall file with the market administrator a report showing the identity of the operator of the shipping plant, the plant location, the quantities of bulk and of packaged fluid milk products received, and such other information respecting any such receipt as the market administrator may require.

§ 1006.31 Reports of other handlers.

Each handler who does not operate a regulated plant, or any other plant from which fluid milk products are disposed of on routes in the marketing area, shall file with the market administrator reports relating to his receipts and utilization of milk and milk products at the time and in the manner prescribed by the market administrator.

9. A new § 1006.38 is added to read as follows:

§ 1006.38 Reports of receipts from dairy farmers at plants supplying or distributing pool milk other than producer milk.

For any month in which it is claimed that the farms of some of the dairy farmers from whom he received milk are located in a farm location differential area, each handler from whose plant pool milk other than producer milk is moved to a regulated plant, and each handler who distributes pool milk on routes in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling, shall file with the market administrator a report showing the name, post office address, and farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 10 days after the market administrator's request made not earlier than the 20th day after the end of the month.

10. In § 1006.42 the heading and the introductory text are revised to read as follows:

§ 1006.42 Zone price differentials.

The prices determined pursuant to §§ 1006.40, 1006.41, and 1006.51 shall be subject to zone price differentials based upon the zone location of the plant at which producer milk is received and upon the zone location of the plant from which pool milk other than producer milk is received or distributed.

11. The center head "Blended Prices to Producers" preceding § 1006.50 is revised to "Blended Prices", and §§ 1006.50 and 1006.51 are revised to read as follows:

§ 1006.50 Computation of the value of fluid milk products for each handler.

For each month, the market administrator shall compute the value of fluid milk products for each handler who is not a producer-handler under any Federal order as follows:

(a) Multiply the quantity of fluid milk products assigned to Class I milk pursuant to § 1006.25(d) (1) and (2), by the price pursuant to §§ 1006.40 and 1006.42 for the zone location of the handler's regulated plant nearest to Springfield.

(b) Multiply the quantities of fluid milk products assigned to Class I milk pursuant to § 1006.25(d) (3) and (4) and (p), by the prices pursuant to §§ 1006.40 and 1006.42 for the zone locations of the plants from which such fluid milk products were received.

(c) Multiply the quantities of pool milk assigned to Class I milk pursuant to § 1006.25 (b), (e), (g), and (o), by the prices pursuant to §§ 1006.40 and 1006.42 for the zone locations of the plants from which such fluid milk products were received;

(d) Multiply the quantities of pool milk assigned to Class I milk pursuant to § 1006.25 (i), (j), and (l), by the applicable prices pursuant to §§ 1006.40 and 1006.42;

(e) Multiply the quantity of pool milk disposed of on routes in the marketing area from the handler's partially regulated distributing plant or the handler's plant which is fully regulated under a Federal order providing for individual-handler pooling, by the price pursuant to §§ 1006.40 and 1006.42 for the zone location of the plant;

(f) Multiply the quantities of pool milk assigned to Class II milk pursuant to § 1006.26, by the prices pursuant to §§ 1006.41 and 1006.42;

(g) Multiply the quantity of overage in each class computed pursuant to § 1006.27, by the prices pursuant to §§ 1006.40, 1006.41, and 1006.42 for the zone location of the handler's regulated plant nearest to Springfield;

(h) Multiply the quantity of fluid milk products assigned to Class I milk pursuant to § 1006.25(d) (1) and (2), by the price pursuant to §§ 1006.41 and 1006.42 for the zone location of the handler's regulated plant nearest to Springfield;

(i) Multiply the quantities of fluid milk products assigned to Class I milk pursuant to § 1006.25(d) (3) and (4) and (p), by the prices pursuant to §§ 1006.41 and 1006.42 for the zone locations of the plants from which such fluid milk products were received; and

(j) Add together the amounts resulting from the computations described in paragraphs (a) through (g) of this section and substract therefrom the sum of the amounts resulting from the computations described in paragraphs (h) and (i) of this section. The remainder shall be known as the value of fluid milk products.

§ 1006.51 Computation of the basic blended price.

For each month, the market administrator shall compute the basic blended price per hundredweight as follows:

(a) Combine into one total the respective values of fluid milk products computed pursuant to § 1006.50 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the reports prescribed in § 1006.30 for such month and the payments required pursuant to § 1006.72(a) for the preceding month;

(b) Add the amount of the unreserved balance of the producer settlement fund as at the close of business on the 10th day after the end of the month;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to §§ 1006.64 and 1006.75;

(d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Substract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in the producer settlement fund. The resulting price is the blended price for milk containing 3.7 percent butterfat received from producers at city plants, and shall be known as the basic blended price.

12. The center head "Payments for milk" preceding § 1006.60 is revised to read "Payments by handlers directly to producers".

13. In § 1006.60, the heading is revised to read "Advance payments to producers".

14. Section 1006.61 is revised to read as follows:

§ 1006.61 Final payments to producers.

On or before the 20th day after the end of each month, each pool handler shall make payment to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 1006.63 and 1006.64, for the quantity of milk delivered by such producer.

15. Section 1006.62 is revised to read as follows:

§ 1006.62 Adjustment of errors in payments to producers.

Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 1006.61, the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

16. In the introductory text of § 1006.64, the reference "1006.61(a)" is revised to "1006.61".

17. Section 1006.65 is revoked.

18. The text of § 1006.66 is designated as paragraph (a) and the reference "1006.61(a)" therein is revised to "1006.61", the text formerly contained in § 1006.71 is now contained in § 1006.66 as paragraph (b) and the references "1006.70" and "1006.61(a)" therein are revised to "1006.67" and "1006.61", respectively, and § 1006.71 is deleted.

19. The provisions formerly contained in § 1006.67 are now contained in § 1006.74 and § 1006.67 is deleted, and the reference "1006.61, 1006.62, and 1006.65" therein is revised to "1006.72 and 1006.73".

20. The provisions formerly contained in § 1006.70 are now contained in § 1006.67 and § 1006.70 is deleted, and the references "1006.61(a)" and "1006.71" therein are revised to "1006.61" and "1006.66(b)", respectively.

21. In § 1006.68, the reference "1006.61 (a)" in the introductory text and in paragraph (c) is revised to "1006.61", and the reference "1006.66, 1006.70, and 1006.71" in paragraph (e) is revised to "1006.66 and 1006.67".

22. The center head "Marketing services" preceding § 1006.70 is deleted.

23. The center head "Administration expense" preceding § 1006.72 is relocated to precede § 1006.78 and the provisions formerly contained in § 1006.72 are now contained in § 1006.78 and § 1006.72 is deleted. The new § 1006.78 is revised to read as follows:

§ 1006.78 Payments of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe. In the case of regulated plants, the payment shall apply to all the handler's receipts during the month of fluid milk products from all sources, except receipts from regulated plants, receipts from other Federal order plants if such receipts were subject to an administration expense assessment under the order, and receipts of exempt milk processed at plants other than regulated plants. In the case of partially regulated distributing plants, the payment shall apply to the quantity of pool milk at such plant for which a value is determined pursuant to § 1006.50(e).

24. The center head "Obligations" preceding § 1006.73 is relocated to precede § 1006.79 and the provisions formerly contained in § 1006.73 are now contained in §1006.79 and § 1006.73 is deleted.

25. A new center head "Producer settlement fund and its operation" is added to precede § 1006.70 and new §§ 1006.70 through 1006.73 and § 1006.75 are added to read as follows:

PRODUCER-SETTLEMENT FUND AND ITS OPERATION

§ 1006.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers, and out of which he shall make all payments to handlers, pursuant to §§ 1006.72, 1006.73, and 1006.74.

§ 1006.71 Handler's pool debit or pool credit.

On or before the 15th day after the end of each month the market administrator shall render a statement to each handler showing the amount of such handler's pool debit or pool credit, which shall be computed as follows:

(a) Multiply the quantities of pool milk by the basic blended price computed to § 1006.51, adjusted by the plant and farm location differentials provided in §§ 1006.64 and 1006.75;

(b) If the value of the handler's fluid milk products as determined pursuant to § 1006.50 is greater than the result obtained pursuant to paragraph (a) of this section, the difference shall be such handler's pool debit; and

(c) If the value of the handler's fluid milk products as determined pursuant to § 1006.50 is less than the result obtained pursuant to paragraph (a) of this section, the difference shall be such handler's pool credit.

§ 1006.72 Payments to or out of the producer-settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall make payment to the market administrator of the amount of the handler's pool debit for the month as determined pursuant to § 1006.71(b).

(b) On or before the 20th day after the end of the month, the market administrator shall make payment to each handler of the amount of the handler's pool credit for the month as determined pursuant to § 1006.71(c).

§ 1006.73 Adjustment of errors.

Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to § 1006.72, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th

day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

§ 1006.75 Location differentials applicable to pool milk other than producer milk.

With respect to pool milk other than producer milk, the basic blended price shall be subject to the zone price differential set forth in Column C of the table in § 1006.42 for the zone location of the plant from which such milk was received or distributed, and to further differentials computed as follows:

Divide the respective quantities of milk received at the plant directly from dairy farmers' farms located in each farm location differential area described in § 1006.64 by the total receipts of fluid milk products at the plant, multiply by 100, and apply each of the resulting percentages to the total quantity of pool milk other than producer milk received or distributed from the plant. The results are the respective quantities of such milk to which the farm location differentials specified in § 1006.64 (a) and (b) shall apply: *Provided,* That until such time as full information relative to all receipts at the plant, including the respective quantities of milk received directly from dairy farmers' farms in each farm location differential area, is submitted to the market administrator it shall be considered that none of the farms from which milk was received at the plant is located in a farm location differential area.

Amendments to Worcester order provisions. 1. In § 1007.2, paragraphs (d) and (h) (1) are revised to read as follows:

§ 1007.2 Definitions of persons.

* * * * *

(d) "Dairy farmer for other markets" means any person described in subparagraph (1), (2), or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to a regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer if all such nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(3) Any dairy farmer with respect to any of the months of December through June in which his milk is received by a handler at a regulated plant from a farm from which the handler received nonpool milk during any of the preceding months of July through November at a plant which is a nonpool plant under any Federal order in such current month of December through June, except that the term shall not apply if all such nonpool milk was a receipt of producer milk under another Federal order or represented receipts from own production by a producer-handler under any Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(5) Receipts from each dairy farmer for other markets shall be considered as receipts from the plant to which he ordinarily delivered.

* * * * *

(h) "Handler" means (1) any person who, during the month, operates a pool plant; or who operates any other plant, or pool bulk tank unit under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area; or

2. In § 1007.3, paragraphs (e) through (i) are revised and new paragraphs (j) and (k) are added to read as follows:

§ 1007.3 Definitions of plants.

* * * * *

(e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 1007.20 and 1007.21, except a plant fully regulated under another Federal order providing for marketwide pooling or the plant of a producer-handler under any Federal order.

(f) "Regulated distributing plant" means any processing and packaging plant (other than the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month which is not less than 10 percent of its total receipts of fluid milk products and with total Class I disposition in the month or in either of the two preceding months which is not less than 40 percent of its total receipts of fluid milk products in the corresponding month, and from which a greater proportion of its Class I milk was disposed of on routes in this marketing area in the month than was so disposed of in any other marketing area defined under another Federal order providing for marketwide pooling: *Provided,* That a plant which meets these requirements shall not qualify as a regulated distributing plant pursuant to this paragraph if the route disposition in this marketing area from the plant does not exceed a daily average of 300 quarts for the month.

(g) "Regulated plant" means any pool plant or any regulated distributing plant.

(h) "Supply plant" means any receiving plant (other than a pool plant, on the basis of its route disposition, under the provisions of this or any other Federal order providing for marketwide pooling) from which fluid milk products are shipped to a regulated distributing plant.

(i) "Other Federal order plant" means a pool plant or a pool bulk tank unit under another Federal order, or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal order.

(j) "Distributing plant for unregulated markets" means any processing and packaging plant, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (f) of this section, or a producer-handler's plant under any Federal order, from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month.

(k) "Partially regulated distributing plant" means any processing and packaging plant with route disposition in the marketing area, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (f) of this section, or a producer-handler's plant under any Federal order.

3. In § 1007.4, paragraph (i) is revoked and a new paragraph (i) is added to read as follows:

§ 1007.4 Definitions of milk and milk products.

* * * * *

(i) "Pool milk" means: (1) Producer milk;

(2) The following receipts of fluid milk products at regulated plants, exclusive of exempt milk, receipts from regulated plants, receipts from producer-handlers' plants under any Federal order, receipts from plants described in the proviso in § 1007.3(f), and receipts from other Federal order plants which were classified and priced under the other Federal order:

(i) Receipts at regulated distributing plants from plants located more than 400 miles from Boston, Massachusetts;

(ii) Receipts at regulated plants, other than regulated distributing plants, to the extent assigned to Class I milk pursuant to § 1007.25(e), from plants located more than 400 miles from Boston, Massachusetts; and

(iii) Receipts at regulated plants, to the extent assigned to Class I milk pursuant to § 1007.25(e), from plants located not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(3) Receipts of fluid milk products at regulated plants, to the extent assigned to Class I milk pursuant to § 1007.25(b), (g) and (o), from plants fully regulated under a Federal order providing for individual-handler pooling; and

(4) Net route disposition in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling in excess of a daily average of 300 quarts for the month

after deducting from the total route disposition in the marketing area from such plant the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order providing for marketwide pooling: *Provided*, That the receipts of priced milk used to offset route disposition in this marketing area shall not be used to offset route disposition in any other Federal marketing area.

4. In § 1007.12(c), the reference "1007.72" is revised to "1007.78".

4(a). In § 1007.16, paragraphs (d), (e), and (f) are revised to read as follows:

§ 1007.16 Classification of fluid milk products moved to other plants.

* * * * *

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a fully regulated plant under another Federal order;

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a plant to which movements of bulk fluid milk products are subject to classification under the preceding paragraphs of this section; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a fully regulated plant under any Federal order and thence to another plant located outside the New England States and New York State.

5. In § 1007.20, paragraph (a) is revised to read as follows:

§ 1007.20 Basic pooling requirements.

* * * * *

(a) It is a regulated distributing plant.

6. Section 1007.21 is revised to read as follows:

§ 1007.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any month in the period December through June, regardless of whether any fluid milk products are shipped to regulated distributing plants during the month, if it was a supply-type pool plant in each of the preceding months of July through November, or if it would have been a supply-type pool plant in each of such months had it not been a pool plant under another New England Federal order and the market administrator has received the handler's written request for such automatic status for the plant on or before the 16th day of the month, unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this order;

(2) The automatic pool plant status of the plant for such month is revoked pursuant to paragraph (d) of this section; or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to regulated distributing plants during the month, if it was a supply-type pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this order than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which its automatic pool plant status is revoked pursuant to paragraph (d) of this section.

(c) Any supply plant, except a plant which has automatic pool plant status for the month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it either has automatic pool plant status under another New England Federal order or makes a greater quantity of qualifying shipments of fluid milk products to plants subject to another New England Federal order than to regulated distributing plants under this order and meets all of the other applicable conditions and requirements for pool plant status under such other order.

(d) The automatic pool plant status of any supply plant shall be revoked for any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request for revocation of such status for that month.

7. Section 1007.25 is revised to read as follows:

§ 1007.25 Assignment of receipts at regulated plants to Class I milk and Class II milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence, except as otherwise provided in this section:

(a) Receipts of exempt milk;

(b) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order;

(c) Receipts from other handlers' regulated plants of packaged fluid milk products;

(d) Receipts from the following sources shall be assigned next, in sequence, to each class, beginning with the handler's Class II milk:

(1) Receipts or other available quantities of milk products, whether or not originally derived from producer milk, which are combined with or converted into fluid milk products. In the case of milk products reconstituted into fluid milk products, the quantity considered as received shall be the fluid milk products equivalent of such milk products;

(2) Inventory of fluid milk products on hand at the beginning of the month;

(3) Receipts of fluid milk products from producer-handlers under any Federal order and from plants described in the proviso in § 1007.3(f), in sequence beginning with the receipts from the plant most distant from Worcester according to its zone location; and

(4) Receipts of bulk fluid milk products at regulated plants from distributing plants for unregulated markets located not more than 400 miles from Boston, Massachusetts, in sequence beginning with the receipts from the plant most distant from Worcester according to its zone location;

(e) Receipts of fluid milk products from the following sources shall be assigned next to each class, beginning with the handler's remaining Class II milk, in sequence beginning with the receipts from the plant most distant from Worcester according to its zone location: *Provided*, That receipts from regulated plants, receipts from producer-handlers under any Federal order, receipts from other Federal order plants of fluid milk products classified and priced under the other order, and receipts from plants described in the proviso in § 1007.3(f) shall not be assigned under this subparagraph:

(1) Receipts at regulated plants, other than regulated distributing plants, from plants located more than 400 miles from Boston, Massachusetts; and

(2) Receipts at regulated plants from plants located not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(f) Receipts from regulated plants under the Boston order of bulk fluid milk products classified as Class I milk under the Boston order;

(g) Receipts of bulk fluid milk products at regulated distributing plants from other Federal order plants not regulated under any New England Federal order, if classified and priced as Class I milk under the other Federal order or subject to such classification and pricing if assigned to Class I milk under this order. Such receipts shall be assigned pro rata to the remaining respective quantities of Class I milk and Class II milk at the regulated distributing plant at which such milk was received.

(h) Receipts from other handlers' regulated city plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers;

(i) Receipts of producer milk at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of outside the marketing area without being received at a city plant;

(j) Receipts of producer milk at the handler's city plant;

(k) Receipts from other handlers' regulated country plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers, in the order of the nearness of the originating plants to Worcester according to their zone locations;

(l) Remaining receipts of producer milk at the handler's country pool

plants and of pool milk not producer milk, exclusive of receipts of pool milk from plants fully regulated under a Federal order providing for individual-handler pooling, in sequence beginning with the receipts of producer milk at the country pool plant, or the receipts of pool milk not producer milk from the plant from which received, as the case may be, which is nearest to Worcester according to its zone location;

(m) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraphs (h) and (k) of this section, in the order of the nearness of the originating plants to Worcester according to their zone locations;

(n) Receipts from fully regulated plants under other New England Federal orders of bulk fluid milk products not assigned to Class I milk pursuant to paragraph (f) of this section, if classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order. If there are receipts from more than one such Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of route disposition in such market by the handler;

(o) Receipts of bulk fluid milk products at regulated plants, other than regulated distributing plants, from other Federal order plants not regulated under any New England Federal order, if classified and priced as Class I milk under the other orders or subject to such classification and pricing if assigned to Class I milk under this order; and

(p) Receipts not assigned previously to Class I milk or Class II milk pursuant to this section of fluid milk products from other Federal order plants.

7A. A new § 1007.27 is added to read as follows:

§ 1007.27 Overage.

Any quantities of Class I milk or Class II milk remaining after the assignment of receipts to classes pursuant to §§ 1007.25 and 1007.26 shall be known as "overage".

8. Sections 1007.30 and 1007.31 are revised to read as follows:

§ 1007.30 Reports of pool handlers, and of nonpool handlers with route disposition in the marketing area.

(a) On or before the eighth day after the end of each month, each pool handler, and any other handler who operates a plant from which fluid milk products are disposed of on routes in the marketing area, shall file with the market administrator a report of his receipts and utilization of milk and milk products for the month. The report shall be in detail and form prescribed by the market administrator, and shall contain the following information:

(1) The receipts of pool milk at each plant, including the quantity, if any, received from the handler's own production;

(2) The receipts of fluid milk products and cream at each plant from any other handler, assigned to classes pursuant to §§ 1007.25 and 1007.26;

(3) The receipts at each plant of fluid milk products and cream from all other sources; and

(4) The respective quantities which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 1007.15 to 1007.17.

(b) Within five days after the first receipt at his regulated plant of fluid milk products during the month from each plant which is neither a fully regulated plant nor a producer-handler's plant under any New England Federal order, each handler shall file with the market administrator a report showing the identity of the operator of the shipping plant, the plant location, the quantities of bulk and of packaged fluid milk products received, and such other information respecting any such receipt as the market administrator may require.

§ 1007.31 Reports of other handlers.

Each handler who does not operate a regulated plant, or any other plant from which fluid milk products are disposed of on routes in the marketing area, shall file with the market administrator reports relating to his receipts and utilization of milk and milk products at the time and in the manner prescribed by the market administrator.

9. A new § 1007.38 is added to read as follows:

§ 1007.38 Reports of receipts from dairy farmers at plants supplying or distributing pool milk other than producer milk.

For any month in which it is claimed that the farms of some of the dairy farmers from whom he received milk are located in the farm location differential area, each handler from whose plant pool milk other than producer milk is moved to a regulated plant, and each handler who distributes pool milk on routes in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling, shall file with the market administrator a report showing the name, post office address, and farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 10 days after the market administrator's request made not earlier than the 20th day after the end of the month.

10. In § 1007.42 the heading and the introductory text are revised to read as follows:

§ 1007.42 Zone price differentials.

The prices determined pursuant to §§ 1007.40, 1007.41, and 1007.51 shall be subject to zone price differentials based upon the zone location of the plant at which producer milk is received; and upon the zone location of the plant from which pool milk other than producer milk is received or distributed.

11. The center head "Blended Prices to Producers" preceding § 1007.50 is revised to "Blended Prices", and §§ 1007.50 and 1007.51 are revised to read as follows:

§ 1007.50 Computation of the value of fluid milk products for each handler.

For each month, the market administrator shall compute the value of fluid milk products for each handler who is not a producer-handler under any Federal order as follows:

(a) Multiply the quantity of fluid milk products assigned to Class I milk pursuant to § 1007.25(d)(1) and (2) by the price pursuant to §§ 1007.40 and 1007.42 for the zone location of the handler's regulated plant nearest to Worcester;

(b) Multiply the quantities of fluid milk products assigned to Class I milk pursuant to § 1007.25(d)(3) and (4) and (p), by the prices pursuant to §§ 1007.40 and 1007.42 for the zone locations of the plants from which such fluid milk products were received;

(c) Multiply the quantities of pool milk assigned to Class I milk pursuant to § 1007.25(b), (e), (g) and (o), by the prices pursuant to §§ 1007.40 and 1007.42 for the zone locations of the plants from which such fluid milk products were received;

(d) Multiply the quantities of pool milk assigned to Class I milk pursuant to § 1007.25(i), (j), and (l), by the applicable prices pursuant to §§ 1007.40 and 1007.42;

(e) Multiply the quantity of pool milk disposed of on routes in the marketing area from the handler's partially regulated distributing plant or the handler's plant which is fully regulated under a Federal order providing for individual-handler pooling, by the price pursuant to §§ 1007.40 and 1007.42 for the zone location of the plant;

(f) Multiply the quantities of pool milk assigned to Class II milk pursuant to § 1007.26 by the prices pursuant to §§ 1007.41 and 1007.42;

(g) Multiply the quantity of overage in each class computed pursuant to § 1007.27, by the prices pursuant to §§ 1007.40, 1007.41, and 1007.42 for the zone location of the handler's regulated plant nearest to Worcester;

(h) Multiply the quantity of fluid milk products assigned to Class I milk pursuant to § 1007.25(d)(1) and (2), by the price pursuant to §§ 1007.41 and 1007.42 for the zone location of the handler's regulated plant nearest to Worcester.

(i) Multiply the quantities of fluid milk products assigned to Class I milk pursuant to § 1007.25(d)(3) and (4) and (p), by the prices pursuant to §§ 1007.41 and 1007.42 for the zone locations of the plants from which such fluid milk products were received; and

(j) Add together the amounts resulting from the computations described in paragraphs (a) through (g) of this section and subtract therefrom the sum of the amounts resulting from the computations described in paragraphs (h) and (i) of this section. The remainder shall

be known as the value of fluid milk products.

§ 1007.51 Computation of the basic blended price.

For each month, the market administrator shall compute the basic blended price per hundredweight as follows:

(a) Combine into one total the respective values of fluid milk products computed pursuant to § 1007.50 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the reports prescribed in § 1007.30 for such month and the payments required pursuant to § 1007.72(a) for the preceding month;

(b) Add the amount of the unreserved balance of the producer settlement fund as at the close of business on the 10th day after the end of the month;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to §§ 1007.64 and 1007.75;

(d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in the producer settlement fund. The resulting price is the blended price for milk containing 3.7 percent butterfat received from producers at city plants, and shall be known as the basic blended price.

12. The center head "Payments for milk" preceding § 1007.60 is revised to read "Payments by handlers directly to producers".

13. In § 1007.60, the heading is revised to read "Advance payments to producers".

14. Section 1007.61 is revised to read as follows:

§ 1007.61 Final payments to producers.

On or before the 20th day after the end of each month, each pool handler shall make payment to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 1007.63 and 1007.64, for the quantity of milk delivered by such producer.

15. Section 1007.62 is revised to read as follows:

§ 1007.62 Adjustment of errors in payments to producers.

Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 1007.61, the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

16. In the introductory text of § 1007.64, the reference "1007.61(a)" is revised to "1007.61".

17. Section 1007.65 is revoked.

18. The text of § 1007.66 is designated as paragraph (a) and the reference "1007.61(a)" therein is revised to "1007.61", the text formerly contained in § 1007.71 is now contained in § 1007.66 as paragraph (b) and the references "1007.70" and "1007.61(a)" therein are revised to "1007.67" and "1007.61", respectively, and § 1007.71 is deleted.

19. The provisions formerly contained in § 1007.67 are now contained in § 1007.74 and § 1007.67 is deleted, and the reference "1007.61, 1007.62, and 1007.65" therein is revised to "1007.72 and 1007.73".

20. The provisions formerly contained in § 1007.70 are now contained in § 1007.67 and § 1007.70 is deleted, and the references "1007.61(a)" and "1007.71" therein are revised to "1007.61" and "1007.66(b)", respectively.

21. In § 1007.68 the reference "1007.61(a)" in the introductory text and in paragraph (c) is revised to "1007.61", and the reference "1007.66, 1007.70, and 1007.71" in paragraph (e) is revised to "1007.66 and 1007.67".

22. The center head "Marketing Services" preceding § 1007.70 is deleted.

23. The center head "Administration Expense" preceding § 1007.72 is relocated to precede § 1007.78 and the provisions formerly contained in § 1007.72 are now contained in § 1007.78 and § 1007.72 is deleted. The new § 1007.78 is revised to read as follows:

§ 1007.78 Payments of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe. In the case of regulated plants, the payment shall apply to all the handler's receipts during the month of fluid milk products from all sources, except receipts from regulated plants, receipts from other Federal order plants if such receipts were subject to an administration expense assessment under the other order, and receipts of exempt milk processed at plants other than regulated plants. In the case of partially regulated distributing plants, the payment shall apply to the quantity of pool milk at such plant for which a value is determined pursuant to § 1007.50(e).

24. The center head "Obligations" preceding § 1007.73 is relocated to precede § 1007.79 and the provisions formerly contained in § 1007.73 are now contained in § 1007.79 and § 1007.73 is deleted.

25. A new center head "Producer Settlement Fund and Its Operations" is added to precede § 1007.70 and new §§ 1007.70 through 1007.73 and § 1007.75 are added to read as follows:

PRODUCER SETTLEMENT FUND AND ITS OPERATION

§ 1007.70 Producer settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer settlement fund" into which he shall deposit all payments made by handlers, and out of which he shall make all payments to handlers, pursuant to § 1007.72, 1007.73, and 1007.74.

§ 1007.71 Handler's pool debit or pool credit.

On or before the 15th day after the end of each month the market administrator shall render a statement to each handler showing the amount of such handler's pool debit or pool credit, which shall be computed as follows:

(a) Multiply the quantities of pool milk by the basic blended price computed pursuant to § 1007.51, adjusted by the plant and farm location differentials provided in § 1007.64 and 1007.75;

(b) If the value of the handler's fluid milk products as determined pursuant to § 1007.50 is greater than the result obtained pursuant to paragraph (a) of this section, the difference shall be such handler's pool debit; and

(c) If the value of the handler's fluid milk products as determined pursuant to § 1007.50 is less than the result obtained pursuant to paragraph (a) of this section, the difference shall be such handler's pool credit.

§ 1007.72 Payments to or out of the producer settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall make payment to the market administrator of the amount of the handler's pool debit for the month as determined pursuant to § 1007.71(b).

(b) On or before the 20th day after the end of the month, the market administrator shall make payment to each handler of the amount of the handler's pool credit for the month as determined pursuant to § 1007.71(c).

§ 1007.73 Adjustment of errors.

Whenever verification by the market administrator of reports or payments of any handler discloses an error in payment made pursuant to § 1007.72, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

§ 1007.75 Location differentials applicable to pool milk other than producer milk.

With respect to pool milk other than producer milk, the basic blended price shall be subject to the zone price differential set forth in Column C of the table in § 1007.42 for the zone location of the plant from which such milk was received or distributed, and to further differentials computed as follows:

Divide the quantity of milk received at the plant directly from dairy farmers' farms located in the farm location differential area described in § 1007.64 by the total receipts of fluid milk products at

the plant, multiply by 100, and apply the resulting percentage to the total quantity of pool milk other than producer milk received or distributed from the plant. The result is the quantity of such milk to which the farm location differential specified in § 1007.64(a) shall apply: *Provided,* That until such time as full information relative to all receipts at the plant, including the quantity of milk received directly from dairy farmers' farms in the farm location differential area, is submitted to the market administrator it shall be considered that none of the farms from which milk was received at the plant is located in the farm location differential area.

Amendments to Southeastern New England order provisions. 1. In § 1014.2, paragraphs (d) and (g)(1) and the second proviso in paragraph (e) are revised to read as follows:

§ 1014.2 Definitions of persons.

* * * * *

(d) "Dairy farmer for other markets" means any person described in subparagraph (1), (2), or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to a regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer if all such nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this order: *Provided,* That a dairy farmer whose milk is diverted from a pool plant on more than the number of days specified in paragraph (e) of this section shall not be considered to qualify under this subparagraph with respect to any of his milk which was not diverted from the pool plant during the month.

(3) Any dairy farmer with respect to any of the months of December through June in which his milk is received by a handler at a regulated plant from a farm from which the handler received nonpool milk during any of the preceding months of July through November at a plant which is a nonpool plant under any Federal order in such current month of December through June, except that the term shall not apply if all such nonpool milk was a receipt of producer milk under another Federal order or represented receipts from own production by a producer-handler under any Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(5) Receipts from each dairy farmer for other markets shall be considered as receipts from the plant to which he ordinarily delivered.

(e) * * * *And provided further,* That any dairy farmer whose milk is diverted on more than the number of days specified shall not be considered to qualify under this paragraph with respect to any milk diverted to an unregulated plant during the month:

* * * * *

(g) "Handler" means (1) any person who, during the month, operates a pool plant; or who operates any other plant, or pool bulk tank unit under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area; or

2. In § 1014.3, paragraphs (c) (1) and (3) and (d) are revised and new paragraphs (e), (f), (g), (h), and (i) are added to read as follows:

§ 1014.3 Definitions of plants.

* * * * *

(c) "Pool plant" means:

(1) Any receiving plant which is a regulated distributing plant,

* * * * *

(3) Except as provided in subdivisions (i) through (iii) of this subparagraph, any supply plant from which a greater quantity of fluid milk products is shipped during the month to a regulated distributing plant than to plants to which qualifying shipments of fluid milk products may be made under any other New England Federal order, and from which the total quantity of fluid milk products shipped to all plants to which qualifying shipments of fluid milk products may be made under any New England Federal order is at least 15 percent of its total receipts of milk from dairy farmers: *Provided,* That any plant qualifying for pooling under the Boston order on the basis of greater shipments under such order, but which is designated as a nonpool plant under the Boston order for such month, and from which the qualifying shipments under this order are at least 15 percent of its receipts of milk from dairy farmers and are greater than under any other order except Boston shall also qualify under this subparagraph.

(i) Any plant qualifying as a pool plant pursuant to this subparagraph, other than a plant which has pool plant status for the month under subdivision (ii) or (iii) of this subparagraph, shall be a nonpool plant in any month of December through June in which it retains automatic pool plant status under another New England Federal order.

(ii) Any plant which was a pool plant pursuant to this subparagraph in each of the months of July through November or which held comparable supply-type pool plant status under one or another of the New England Federal orders in each month of such period but had the greater proportion of its receipts from dairy farmers pooled under this part during such period shall have automatic pool plant status in the immediately succeeding months of December through June: *Provided,* That the automatic pool plant status of such plant shall be revoked for any of the months of December through June for which the market administrator has received on or before the sixteenth day of the month, the handler's written request for revocation of such status for that month: *And provided further,* That such plant shall not have automatic pool plant status under this subdivision for any month of such December through June period subsequent to a month for which its automatic pool plant status is revoked.

(iii) Any plant which was not a pool plant under this part during each of the months of July through November but which met the pooling requirements pursuant to this subparagraph in each of such months shall be a pool plant in any of the months of December through June, if written request for pooling status is made to the market administrator on or before the 16th day of such month and such plant is not a pool plant under another Federal order in such month, except that if such plant was a nonpool plant under all of the New England orders in any of the months of December through June it shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph.

(d) "Regulated distributing plant" means any processing and packaging plant (other than the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month which is not less than 10 percent of its total receipts of fluid milk products and with total Class I disposition in the month or in either of the two preceding months which is not less than 40 percent of its total receipts of fluid milk products in the corresponding month, unless the market administrator determines that a greater proportion of the plant's Class I milk was disposed of on routes in the month in any other marketing area defined under another Federal order providing for marketwide pooling than was so disposed of in this marketing area: *Provided,* That a plant which meets these requirements shall not qualify as a pool plant pursuant to this subparagraph if the route disposition in this marketing area from the plant does not exceed a daily average of 300 quarts for the month.

(e) "Regulated plant" means any pool plant or any regulated distributing plant.

(f) "Supply plant" means any receiving plant (other than a pool plant, on the basis of its route disposition, under the provisions of this or any other Federal order providing for marketwide pooling) from which fluid milk products are shipped to a regulated distributing plant.

(g) "Other Federal order plant" means a pool plant or a pool bulk tank unit under another Federal order, or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of another Federal order.

(h) "Distributing plant for unregulated markets" means any processing and packaging plant, except a fully regu-

lated plant under any Federal order, a plant described in the proviso in paragraph (d) of this section, or a producer-handler's plant under any Federal order, from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month.

(i) "Partially regulated distributing plant" means any processing and packaging plant with route disposition in the marketing area, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (d) of this section, or a producer-handler's plant under any Federal order.

3. In § 1014.4, paragraphs (g), (h), and (i) are redesignated as paragraphs (h), (i), and (j), respectively, a new paragraph (g) is added, and paragraph (i)(2) as redesignated is revised, to read as follows:

§ 1014.4 Definitions of milk and milk products.

* * * * *

(g) "Pool milk" means:

(1) Producer milk;

(2) The following receipts of fluid milk products at regulated plants, exclusive of exempt milk, receipts from regulated plants, receipts from producer-handlers' plants under any Federal order, receipts from plants described in the proviso in § 1014.3(d), and receipts from other Federal order plants which were classified and priced under the other Federal order:

(i) Receipts at regulated distributing plants from plants located more than 400 miles from Boston, Massachusetts;

(ii) Receipts at regulated plants, other than regulated distributing plants, to the extent assigned to Class I milk pursuant to § 1014.24 (b)(6) and (c), from plants located more than 400 miles from Boston, Massachusetts; and

(iii) Receipts at regulated plants, to the extent assigned to Class I milk pursuant to § 1014.24 (b)(6) and (c), from plants located not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(3) Receipts of fluid milk products at regulated plants, to the extent assigned to Class I milk pursuant to § 1014.24(b)(2), (8) and (17) and (c), from plants fully regulated under a Federal order providing for individual-handler pooling; and

(4) Net route disposition in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling in excess of a daily average of 300 quarts for the month after deducting from the total route disposition in the marketing area from such plant the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order providing for marketwide pooling: *Provided*, That the receipts of priced milk used to offset route disposition in this marketing area shall not be used to offset route disposition in any other Federal marketing area.

* * * * *

(i) * * *

(2) Receipts (other than pool milk and exempt milk) in the form of fluid milk products from any source other than a regulated plant.

4. In § 1014.22, the introductory text and paragraphs (a), (c), (d), and (e) are revised to read as follows:

§ 1014.22 Transfers of fluid milk products.

Skim milk and butterfat disposed of in the form of any fluid milk product from a regulated plant to another plant shall be classified:

(a) In the class in which assigned at the transferee-plant pursuant to § 1014.24 if moved to another regulated plant.

* * * * *

(c) In the class in which assigned under the other order if moved to another Federal order plant.

(d) As Class I milk if moved to a nonpool plant, except the plant of a producer-handler or a fully regulated plant under any Federal order, unless Class II utilization is established: *Provided*, That (1) the amount of such skim milk and butterfat assigned to Class I shall not be less than the Class I disposition from the transferee-plant of skim milk and butterfat, respectively, in the form of fluid milk products on routes in the marketing area, and (2) the amount of such skim milk and butterfat assigned to Class II shall in no event be greater than that volume of skim milk and butterfat, respectively, received in the form of fluid milk products, from fully regulated plants under any Federal order, which is in excess of the Class I utilization at such transferee-plant.

(e) By applying the provisions of paragraphs (a) to (d) of this section, whichever is applicable, if moved to a nonpool plant, except the plant of a producer-handler under any Federal order or an other Federal order plant, and thence to another such plant: *Provided*, That if the other plant to which such movement is made is located outside the New England States and New York State classification shall be as Class I milk.

5. Section 1014.24 is revised to read as follows:

§ 1014.24 Assignment of skim milk and butterfat classified.

(a) For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted pursuant to § 1014.30 and shall compute the total pounds of skim milk and butterfat in each class: *Provided*, That when nonfat milk solids derived from nonfat dry milk, condensed skim milk, or any other product condensed from milk or skim milk, are utilized or unaccounted for by the handler, the total pounds of skim milk computed shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids, except that for dietary weight control products and milk, skim milk or buttermilk fortified, the actual weight of any such products shall be included in computing the total product weight.

(b) Respecting reports for regulated plants, skim milk shall be assigned in the following manner:

(1) Subtract from the pounds of skim milk in Class I milk, the pounds of skim milk received during the month as exempt milk.

(2) Subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk received during the month from fully regulated plants under the provisions of any Federal order in packaged fluid milk products classified and priced as Class I milk under such order or subject to such classification and pricing if assigned to Class I milk under this order.

(3) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in a form other than fluid milk products.

(4) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in the form of fluid milk products from producer-handlers under any Federal order and from plants described in the proviso in § 1014.3(d).

(5) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in the form of bulk fluid milk products from distributing plants for unregulated markets located not more than 400 miles from Boston, Massachusetts.

(6) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk, other than in exempt milk, received during the month in receipts of fluid milk products from the following sources, in sequence, excluding receipts from regulated plants, receipts from producer-handlers under any Federal order, receipts from other Federal order plants of fluid milk products classified and priced under the other order, and receipts from plants described in the proviso in § 1014.3(d): *Provided*, That the receipts of fluid milk products assigned to skim milk in Class I milk pursuant to this subparagraph shall be assigned to transferor-plants in sequence beginning with receipts from the plant nearest to Providence, Rhode Island:

(i) Receipts at regulated plants, other than regulated distributing plants, from plants located more than 400 miles from Boston, Massachusetts; and

(ii) Receipts from plants located not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets.

(7) Subtract from the pounds of skim milk in Class II milk, a quantity equal to such remainder or the pounds of skim milk in inventory of fluid milk products on hand at the end of the month, whichever is less.

(8) For regulated distributing plants, subtract pro rata from the remaining

pounds of skim milk in each class, the pounds of skim milk received during the month in bulk fluid milk products from other Federal order plants not regulated under any New England Federal order, if classified and priced as Class I milk under the other Federal order or subject to such classification and pricing if assigned to Class I milk under this order.

(9) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month from other Federal order plants not regulated under any New England Federal order in other source milk in the form of fluid milk products classified and priced other than as Class I milk under the other order.

(10) (i) During the months of July through September, subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or to 15 percent of the pounds of skim milk in receipts of producer milk, whichever is less.

(ii) During the months of October through June, subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or to 5 percent of the pounds of skim milk in receipts of producer milk, whichever is less.

(11) For regulated plants, other than regulated distributing plants, subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants not regulated under any New England Federal order and not previously assigned, whichever is less.

(12) Subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants regulated under the provisions of another New England Federal order, whichever is less.

(13) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month.

(14) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (7) of this paragraph.

(15) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month from other Federal order plants not regulated under any New England Federal order in other source milk in the form of fluid milk products classified and priced other than as Class I milk under the other order and not assigned pursuant to subparagraph (9) of this paragraph.

(16) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants regulated under the provisions of another New England Federal order and not assigned pursuant to subparagraph (12) of this paragraph.

(17) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants not regulated under any New England Federal order and not assigned pursuant to subparagraphs (8) and (11) of this paragraph.

(18) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (10) of this paragraph.

(19) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in receipts of bulk fluid milk products from regulated plants of other handlers located within 100 miles of Providence.

(20) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in receipts at the handler's regulated plants located not more than 100 miles from Providence of producer milk.

(21) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in receipts at the handler's regulated plants located more than 100 miles from Providence of producer milk which are equal to the pounds of skim milk disposed of in fluid milk products directly from these plants as Class I milk on routes outside the marketing area.

(22) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in receipts of bulk fluid milk products from regulated plants of other handlers not previously assigned, in the order of the nearness of the plants to Providence according to their zone locations.

(23) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in receipts of pool milk at the handler's regulated plants not previously assigned, in sequence beginning with the receipts of producer milk at the handler's regulated plant, or the receipts of pool milk not producer milk from the plant from which received, as the case may be, which is nearest to Providence according to its zone location.

(24) Any remaining pounds of skim milk in each class not assigned shall be known as "overage".

(c) Butterfat shall be assigned in accordance with the same procedure prescribed for skim milk in paragraph (b) of this section.

(d) Add the pounds of skim milk and butterfat in each class, pursuant to paragraphs (b) and (c) of this section.

6. In § 1014.30, the introductory text is revoked, paragraph (b) is revised, and a new paragraph (c) is added, to read as follows:

§ 1014.30 Reports of receipts and utilization.

* * * * *

(b) On or before the 8th day after the end of each month, each handler who operates a nonpool plant from which fluid milk products are disposed of to regulated plants or in the marketing area on routes shall report to the market administrator as follows:

(1) The quantities of skim milk and butterfat contained in:

(i) The receipts of such handler's own farm production;

(ii) The receipts of fluid milk products from pool plants;

(iii) The receipts of other source milk;

(iv) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph;

(v) The fluid milk products disposed of within the marketing area on routes; and

(vi) The fluid milk products disposed of to regulated handlers.

(c) Within 5 days after his first receipt during the month at a regulated plant of fluid milk products from each plant, except a fully regulated plant under any New England Federal order or a producer-handler's plant under any New England Federal order, each handler shall file with the market administrator a report stating the identity of the operator of the shipping plant, its location, the quantities of bulk and packaged fluid milk products received, and such other information respecting the receipt as the market administrator may require.

7. In § 1014.31, a new paragraph (f) is added to read as follows:

§ 1014.31 Other reports.

* * * * *

(f) For any month in which it is claimed that the farms of some of the dairy farmers from whom he received milk are located in a farm location differential area, each handler from whose plant pool milk other than producer milk is moved to a regulated plant, and each handler who distributes pool milk on routes in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling, shall file with the market administrator a report showing the name, post office address, and farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 5 days after the market administrator's request made not earlier than the 20th day after the end of the month.

8. In § 1014.40 the introductory text is revised to read as follows:

§ 1014.40 Class prices.

The minimum class prices per hundredweight of milk containing 3.7 percent butterfat at plants located within 100 miles of Providence, Rhode Island, shall be:

9. In § 1014.42 the title and the introductory text are revised to read as follows:

§ 1014.42 Zone price differentials.

The minimum prices of Class I milk and Class II milk (§ 1014.40) and the

basic blended price (§ 1014.51) at plants located more than 100 miles from Providence, Rhode Island, shall be subject to zone price differentials based upon the zone location of the plant.

10. Section 1014.45 is revised to read as follows:

§ 1014.45 Producer-handlers.

Sections 1014.22 to 1014.24, 1014.40 to 1014.43, 1014.50 and 1014.51, and 1014.60 to 1014.70 shall not apply to a producer-handler under any Federal order.

11. Section 1014.46 is revoked.

12. Section 1014.47 is redesignated § 1014.46 and is revised to read as follows:

§ 1014.46 Other Federal order plants.

Any plant qualifying for pooling under this and any other Federal order providing for marketwide pooling and which is fully regulated under such other Federal order notwithstanding its status under this order shall be exempt from the provisions of this order except as provided in §§ 1014.30(b), 1014.32, and 1014.33.

13. The center head "Determination of Blended Price to Producers" preceding § 1014.50 is revised to read "Determination of Blended Price for Pool Milk".

14. Sections 1014.50 and 1014.51 are revised to read as follows:

§ 1014.50 Computation of the value of fluid milk products for each handler.

For each month, the market administrator shall compute the value of fluid milk products for each handler other than a producer-handler under any Federal order as follows:

(a) Multiply the quantity of pool milk in each class assigned pursuant to § 1014.24 by the applicable class price: *Provided,* That the class prices applicable to pool milk other than producer milk shall be subject to the differentials set forth in the table in § 1014.42(b) which are applicable at the location of the plant from which such pool milk was received.

(b) Multiply the quantity of other source milk assigned to Class I milk pursuant to § 1014.24(b)(3) and (c) by the Class I price applicable at Providence as computed pursuant to § 1014.40.

(c) Multiply the quantities of other source milk assigned to Class I milk pursuant to § 1014.24(b) (4), (5), (9) and (15) and (c) by the Class I price computed pursuant to § 1014.40 applicable at the zone location of the plant from which the other source milk was received.

(d) Multiply the quantity of pool milk disposed of on routes in the marketing area from the handler's partially regulated distributing plant or the handler's plant which is fully regulated under a Federal order providing for individual-handler pooling, by the Class I price applicable at the zone location of the plant.

(e) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat, respectively, was assigned to Class II milk in the preceding month by the hundredweight of skim milk and butterfat, respectively, subtracted from Class I milk pursuant to § 1014.24(b)(13) and (c) for the month which is in excess of the hundredweight of skim milk and butterfat, respectively, assigned to Class II milk pursuant to § 1014.24(b)(16) and (17) and (c) during the preceding month and classified and priced as Class I milk under the provisions of another Federal order.

(f) Multiply the quantity of overage in each class pursuant to § 1014.24(b)(24) and (c) by the applicable class price adjusted by the butterfat differential pursuant to § 1014.61.

(g) Multiply the quantity of other source milk assigned to Class I milk pursuant to § 1014.24(b)(3) and (c) by the Class II price applicable at Providence as computed pursuant to § 1014.40.

(h) Multiply the quantities of other source milk assigned to Class I milk pursuant to § 1014.24(b) (4), (5), (9) and (15) and (c) by the Class II price computed pursuant to § 1014.40 applicable at the zone location of the plant from which the other source milk was received.

(i) Add together the values resulting from the computations described in paragraphs (a) through (f) of this section and subtract therefrom the values resulting from the computations described in paragraphs (g) and (h) of this section. The remainder shall be known as the value of the handler's fluid milk products.

§ 1014.51 Computation of the basic blended price.

For each month the market administrator shall compute the basic blended price per hundredweight as follows:

(a) Combine into one total the value of fluid milk products computed pursuant to § 1014.50 for each handler who made the reports prescribed in § 1014.30 for the month and who was not in default of payments pursuant to § 1014.65 for the preceding month.

(b) Deduct the amount of the plus differentials applicable pursuant to § 1014.63 and add the amount of the minus differentials applicable pursuant to § 1014.62.

(c) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund.

(d) Divide the resulting amount by the total hundredweight of pool milk included under paragraph (a) of this section.

(e) Subtract not less than 4 cents nor more than 5 cents. The result is the basic blended price for pool milk containing 3.7 percent butterfat received at plants within 100 miles of Providence, Rhode Island.

14A. The center head "Payments" preceding § 1014.60 is revised to read "Payments by Handlers to Producers".

14B. A new center head "Differentials" is added preceding § 1014.61.

15. In § 1014.62, the text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 1014.62 Zone price differentials.

* * * * *

(b) The blended price for pool milk other than producer milk shall be subject to the differential set forth in column C of the table in § 1014.42(b) which is applicable at the location of the plant from which such pool milk was received or distributed.

15A. In § 1014.63, a new paragraph (c) is added to read as follows:

§ 1014.63 Farm location differentials.

* * * * *

(c) The blended prices for pool milk other than producer milk shall be subject to the applicable differentials for milk received from farms located in the areas set forth in paragraphs (a) and (b) of this section: *Provided,* That in applying the differentials such pool milk shall be considered to have been delivered from farms of dairy farmers in quantities proportionate to the total deliveries from such farms to the plant from which such pool milk was moved: *And provided further,* That until such time as full information is submitted to the market administrator relative to the receipts at the plant, including the respective quantities of milk received from dairy farmers' farms in each farm location differential area, it shall be considered that none of the farms from which milk was received at the plant is located in a farm location differential area.

15B. A new center head "Producer-Settlement Fund" is added preceding § 1014.64.

16. Section 1014.64 is revised to read as follows:

§ 1014.64 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers of monies due pursuant to §§ 1014.65, 1014.67, and 1014.68, and out of which he shall make all payments pursuant to §§ 1014.66, 1014.67, and 1014.68: *Provided,* That the market administrator shall offset any such payment due to any handler against payment due from such handler.

17. § 1014.65 is revised to read as follows:

§ 1014.65 Payments to the producer-settlement fund.

On or before the 16th day after the end of each month, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund as follows:

(a) Each handler with respect to his regulated plants shall pay the amount by which the value of his fluid milk products, computed pursuant to § 1014.50, is greater than the sum determined by the application of the basic blended price, computed pursuant to § 1014.51 and adjusted by the differentials applicable pursuant to §§ 1014.62 and 1014.63, to the quantity of his pool milk.

(b) Each other handler, except a producer-handler under any Federal order, shall pay the amount of the value

of his fluid milk products computed pursuant to § 1014.50.

18. § 1014.66 is revised to read as follows:

§ 1014.66 Payments out of the producer-settlement fund.

On or before the 18th day after the end of the month, the market administrator shall pay to each handler the amount by which the sum determined by the application of the basic blended price, computed pursuant to § 1014.51 and adjusted by the differentials applicable pursuant to §§ 1014.62 and 1014.63, to the quantity of his pool milk is greater than the value of the handler's fluid milk products, computed pursuant to § 1014.50: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

19. A new center head "Errors in Payment" is added preceding § 1014.67.

20. A new center head "Overdue Accounts" is added preceding § 1014.68.

21. § 1014.68 is revised to read as follows:

§ 1014.68 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to § 1014.65 to § 1014.70 shall be increased one-half of one percent on the 19th day of the month and on the same day of each month thereafter until such obligation is paid.

22. A new center head "Marketing Service Deductions" is added preceding § 1014.69.

23. A new center head "Administrative Expense" is added preceding § 1014.70.

24. Section 1014.70 is revised to read as follows:

§ 1014.70 Administrative Expense.

Within 16 days after the end of the month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 5 cents per hundredweight, or such lesser rate as the Secretary may prescribe. In the case of regulated plants, the payment shall apply to all receipts during the month of pool milk, including such handler's own production, exempt milk, and other source milk assigned to Class I milk except receipts from other Federal order plants if such receipts were subject to an administration expense assessment under the other order. In the case of partially regulated distributing plants, the payment shall apply to the quantity of pool milk at such plant.

25. A new center head "Obligations" is added preceding § 1014.71.

Amendments to Connecticut order provisions. 1. In § 1015.2, paragraphs (g)(1), (h)(1), and the introductory text of paragraph (e) are revised to read as follows:

§ 1015.2 Definitions of persons.

* * * * *

(e) "Producer" means any dairy farmer (except a producer-handler under any Federal order, a dairy farmer with respect to exempt milk delivered, or a dairy farmer with respect to milk which is producer milk under the provisions of another Federal order) who produces milk which is received during the month at a pool plant, or is diverted by a pool handler from a pool plant to a nonpool plant in accordance with subparagraph (1), (2) or (3) of this paragraph, if such pool handler, in filing the report required pursuant to § 1015.30(a), reports such milk as received from a producer at such pool plant: *Provided,* That any dairy farmer whose milk is physically diverted during any month of July through March, inclusive, on more than the number of days specified shall not be considered to qualify under this paragraph with respect to any milk diverted during the month.

* * * * *

(g) * * *

(1) Any person who, during the month, operates a pool plant; or who operates any other plant, or a pool bulk tank unit under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area,

* * * * *

(h) * * *

(1) Any handler in his capacity as the operator of a pool plant, or a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling from which pool milk is disposed of on routes in the marketing area, or

2. In § 1015.3, subdivision (iv) of paragraph (c)(2) and paragraph (d) are revoked, new paragraphs (d), (e) and (f) are added, and paragraph (c) is revised to read as follows:

§ 1015.3 Definitions of plants.

* * * * *

(c) "Pool plant" means:

(1) Any processing and packaging plant (except the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month which is not less than 10 percent of its total receipts of fluid milk products and with total Class I disposition in the month or in either of the two preceding months which is not less than 40 percent of its total receipts of fluid milk products in the corresponding month, unless the market administrator determines that a greater proportion of the plant's Class I milk was disposed of on routes in the month in any other marketing area defined under another Federal order providing for marketwide pooling than was so disposed of in this marketing area: *Provided,* That a plant which meets these requirements shall not qualify as a pool plant pursuant to this subparagraph if the route disposition in this marketing area from the plant does not exceed a daily average of 300 quarts for the month.

(2) Except as provided in subdivisions (i) through (v) of this subparagraph, any receiving plant (other than a plant fully regulated, on the basis of its route disposition, under the provisions of any Federal order providing for marketwide pooling) from which a greater quantity of fluid milk products is shipped during the month to a pool plant qualified pursuant to subparagraph (1) of this paragraph or to a producer-handler than to plants to which qualifying shipments of fluid milk products may be made under any other New England Federal order, and from which the total quantity of fluid milk products shipped to all plants to which qualifying shipments of fluid milk products may be made under any New England Federal order is at least 15 percent of its total receipts of milk from dairy farmers: *Provided,* That any plant qualifying for pooling under the Boston order on the basis of greater shipments under such order, but which is designated as a nonpool plant under the Boston order for such month, and from which the qualifying shipments under this order are at least 15 percent of its receipts of milk from dairy farmers, and are greater than under any other order except Boston shall also qualify under this subparagraph: *And provided further,* That in the case of any plant for which qualification pursuant to subdivision (v) of this subparagraph is requested, shipments to plants in this market, for the purpose described above in this subparagraph, shall include all deliveries of milk by the cooperative association and by its producer-members in the manner described in such subdivision (v) of this subparagraph.

(i) Any plant qualifying as a pool plant pursuant to this subparagraph, other than a plant which has pool plant status for the month under subdivision (ii) or (iii) of this subparagraph, shall be a nonpool plant in any month of December through June in which it retains automatic pool plant status under another New England Federal order.

(ii) Any plant which was a pool plant pursuant to this subparagraph in each of the months of July through November or which held comparable supply-type pool plant status under one or another of the New England Federal orders in each month of such period but had the greater proportion of its receipts from dairy farmers pooled under this order during such period shall have automatic pool plant status in the immediately succeeding months of December through June: *Provided,* That the automatic pool plant status of such plant shall be revoked for any of the months of December through June for which the market administrator has received on or before the sixteenth day of the month, the handler's written request for revocation of such status for that month: *And provided further,* That such plant shall not have automatic pool plant status under this subdivision for any month of such December through June period subsequent to a month for which its automatic pool plant status is revoked.

(iii) Any plant which was not a pool plant under this order during each of the months of July through November but which met the pooling requirements pursuant to this subparagraph in each

of such months shall be a pool plant in any of the months of December through June, if written request for pooling status is made to the market administrator on or before the 16th day of such month and such plant is not a pool plant under another Federal order in such month, except that if such plant was a nonpool plant under all of the New England orders in any of the months of December through June it shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph.

(iv) Any two receiving plants each of which meets the pooling requirements of this subparagarph for at least one of the months of July through November, and which are operated by the same handler, or for which one handler is responsible for the movement of milk to pool plants described in subparagraph (1) of this paragraph or to a producer-handler may, during the remaining months of August through November, be considered as a unit for the single purpose of having shipments therefrom to plants described in such subparagraph (1) or to a producer-handler combined for determining pool plant status pursuant to this subparagraph: *Provided,* That the operator of such plants submits written notice to the market administrator on or before the 15th day of the month for which such status is first intended to apply specifying the plants to be considered as a unit and the period during which such consideration should apply. A receiving plant that is a pool plant as part of a unit pursuant to this subparagraph may be a nonpool plant if the operator of such plant submits a written request to the market administrator to withdraw such plant from pool plant status, and shall be a nonpool plant if fully regulated under another Federal order pursuant to § 1015.46. Such request shall be submitted on or before the 15th day of the month to which such nonpool status is to apply. Such nonpool status shall be effective until the receiving plant requalifies as a pool plant on the basis of shipments as provided in this section. Such plant shall not be included in a unit prior to the next following August: *And provided also,* That if such combined shipments of the unit are less than would be required to qualify each of the plants separately under this subparagraph, the individual plants may regain pool plant status on the basis of shipments as provided in this section, but shall not be included in a unit prior to the next following August.

(v) Subject to subdivisions (ii) and (iii) of this subparagraph, that receiving plant operated by an association of producers (which shall be the plant closest to Hartford, Connecticut, if more than one plant is operated by such association) shall be a pool plant in any month in which the total quantity of milk shipped therefrom to a pool plant qualified pursuant to subparagraph (1) of this paragraph or to a producer-handler plus the total quantity of milk received directly from farms at pool plants qualified pursuant to subparagraph (1) of this paragraph from producers who are members of such association, is at least 50 percent of the milk delivered by dairy farmer-members of such association to all pool plants and to the receiving plant for which pooling qualification pursuant to this subdivision is requested in writing on or before the 15th day of such month: *Provided,* That a receiving plant which has pooling status under this subdivision may be a nonpool plant for the month if the operating association submits, on or before the 15th day of the month to which nonpool status is to apply, a written request to the market administrator to withdraw such plant from pool plant status, and, if so withdrawn, such plant may not requalify under this subdivision prior to the next following July: *And provided further,* That qualification for pooling under this subdivision shall not affect in any way the requirements of subdivision (iv) of this subparagraph for unit pooling.

(d) "Partially regulated distributing plant" means:

(1) Any processing and packaging plant with route disposition in the marketing area, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (c)(1) of this section, or a producer-handler's plant under any Federal order; or

(2) Any plant which is regulated under another Federal order if such plant disposes of fluid milk products on routes in the marketing area which are not both classified and priced under such order.

(e) "Distributing plant for unregulated markets" means any processing and packaging plant, except a fully regulated plant under any Federal order, a plant described in the proviso in paragraph (c)(1) of this section, or a producer-handler's plant under any Federal order, from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month.

(f) "Other Federal order plant" means a pool plant or a pool bulk tank unit under another Federal order, or any plant which is not a pool plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of another Federal order.

3. In § 1015.4, paragraphs (g), (h), and (i) are redesignated as paragraphs (h), (i), and (j), respectively, paragraph (i)(2) as redesignated is revised, and a new paragraph (g) is added, as follows:

§ 1015.4 Definitions of milk and milk products.

* * * * *

(g) "Pool milk" means:

(1) Producer milk;

(2) The following receipts of fluid milk products at pool plants, exclusive of exempt milk, receipts from pool plants, receipts from producer-handlers' plants under any Federal order, receipts from plants described in the proviso in § 1015.3 (c)(1), and receipts from other Federal order plants which were classified and priced under the other Federal order:

(i) Receipts at pool plants pursuant to § 1015.3(c)(1) from plants located more than 400 miles from Boston, Massachusetts;

(ii) Receipts at pool plants pursuant to § 1015.3(c)(2), to the extent assigned to Class I milk pursuant to § 1015.24(b)(6) and (c), from plants located more than 400 miles from Boston, Massachusetts; and

(iii) Receipts at pool plants, to the extent assigned to Class I milk pursuant to § 1015.24(b)(6) and (c), from plants located not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(3) Receipts of fluid milk products at pool plants, to the extent assigned to Class I milk pursuant to § 1015.24(b)(2), (8) and (20) and (c), from plants fully regulated under a Federal order providing for individual-handler pooling;

(4) Net route disposition in the marketing area from a partially regulated distributing plant pursuant to § 1015.3 (d)(1) or a plant fully regulated under a Federal order providing for individual-handler pooling in excess of a daily average of 300 quarts for the month after deducting from the total route disposition in the marketing area from such plant (except such disposition of packaged certified milk and packaged certified skim milk) the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order providing for marketwide pooling: *Provided,* That the receipts of priced milk used to offset route disposition in this marketing area shall not be used to offset route disposition in any other Federal marketing area; and

(5) Route disposition in the marketing area in excess of a daily average of 300 quarts for the month from a partially regulated distributing plant pursuant to § 1015.3(d)(2) of fluid milk products (other than packaged certified milk or packaged certified skim milk) which were not both classified and priced under any Federal order.

* * * * *

(i) * * *

(2) Receipts (other than pool milk and exempt milk) in the form of fluid milk products from any source other than a pool plant: *Provided,* That this term shall not include the inventory of fluid milk products on hand at the beginning of the month.

4. In § 1015.12(f), the reference "1015.31(a)(4)" is revised to "1015.31(a)(5)".

5. In § 1015.21(b), subparagraphs (5) and (6) are revised to read as follows:

§ 1015.21 Classes of utilization.

* * * * *

(b) * * *

(5) In shrinkage of pool milk pursuant to § 1015.4(g)(1) and (2)(i) (except producer milk diverted pursuant to § 1015.2(e)) not to exceed one-half of one percent of the total pounds of skim milk and butterfat, respectively, received directly as pool milk pursuant to § 1015.4 (g)(1) and (2)(i) plus one and one-half percent of the total pounds of skim milk and butterfat in bulk fluid milk, skim milk and cream received directly

as pool milk pursuant to § 1015.4(g)(1) and (2)(i) and by transfer from a pool plant which were not disposed of in bulk form to another plant;

(6) In shrinkage of pool milk pursuant to § 1015.4(g)(2)(ii) and (iii) and (3) and other source milk; and

6. In § 1015.22, the reference "§ 1002.-83" in paragraph (c)(2) is revised to "§ 1002.44", and paragraphs (a) and (c)(1) and the text of paragraph (d) immediately preceding the proviso therein, are revised to read as follows:

§ 1015.22 Transfers and diversions of fluid milk products.

* * * * *

(a)(1) Except as provided in paragraph (c)(2) of this section, as Class I milk if transferred as a packaged fluid milk product.

(2) As Class I milk if transferred in bulk from a pool plant to another pool plant and a Class II use is not indicated in writing to the market administrator by the operators of both plants on or before the 10th day after the end of the month within which such transfer was made: *Provided,* That the skim milk or butterfat classified as Class II milk shall not exceed the sum of the remainder of use in such class at the plant of the transferee-handler after the calculations prescribed in § 1015.24(b)(12) and the comparable step in § 1015.24(c) and the quantity assigned to Class II milk pursuant to § 1015.24(b)(18) and the comparable step in § 1015.24(c): *And provided also,* That in the case of transfers from a plant subject to a zone price differential, the quantity classified as Class II milk shall not exceed the quantity to which the Class II zone price differential is applicable pursuant to § 1015.42(b).

* * * * *

(c)(1) Except as provided in subparagraph (2) of this paragraph, in the class to which assigned under the other order if transferred or diverted in bulk to a fully regulated plant under the provisions of another Federal order.

* * * * *

(d) As Class I milk is transferred or diverted in bulk to a nonpool plant which is neither the plant of a producer-handler under any Federal order nor a fully regulated plant under the provisions of another Federal order, unless Class II utilization is established:

7. Section 1015.24 is revised to read as follows:

§ 1015.24 Computation and allocation of the quantity of skim milk and butterfat in each class.

(a) For each month, the market administrator shall correct for mathematical and other obvious errors the reports submitted pursuant to § 1015.30(a) and compute with respect to each report the total pounds of skim milk and butterfat in each class: *Provided,* That when nonfat milk solids derived from nonfat dry milk, condensed skim milk or any other product condensed from milk or skim milk are utilized or unaccounted for by the handler, the total pounds of skim milk computed shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids, except that for dietary weight control products and milk, skim milk and buttermilk fortified, the actual weight of any such products shall be included in computing the total product weight; and

(b) Allocate skim milk with respect to each report, other than the report for a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling, in the following manner:

(1) Subtract from the pounds of skim milk in Class I milk, the pounds of skim milk received during the month as exempt milk.

(2) Subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk received during the month in packaged fluid milk products from fully regulated plants under the provisions of any Federal order if such products are classified and priced as Class I milk under such order or subject to such classification and pricing if assigned to Class I milk under this order.

(3) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in a form other than fluid milk products.

(4) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in the form of fluid milk products from producer-handlers under any Federal order and from plants described in the proviso in § 1015.3(c)(1).

(5) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in the form of bulk fluid milk products from distributing plants for unregulated markets located not more than 400 miles from Boston, Massachusetts.

(6) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk, other than in exempt milk, received during the month in receipts of fluid milk products from the following sources, in sequence, excluding receipts from pool plants, receipts from producer-handlers under any Federal order, receipts from other Federal order plants of fluid milk products classified and priced under the other order, and receipts from plants described in the proviso in § 1015.3(c)(1): *Provided,* That the receipts of fluid milk products assigned to skim milk in Class I milk pursuant to this subparagraph shall be assigned to transferor-plants in sequence beginning with receipts from the plant nearest to Hartford, Connecticut:

(i) Receipts at pool plants pursuant to § 1015.3(c)(2) from plants located more than 400 miles from Boston, Massachusetts; and

(ii) Receipts from plants located not more than 400 miles from Boston, Massachusetts exclusive of bulk fluid milk products from distributing plants for unregulated markets.

(7) Subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or the pounds of skim milk in inventory of fluid milk products on hand at the end of the month, whichever is less.

(8) At pool plants pursuant to § 1015.3(c)(1), subtract pro rata from the remaining pounds of skim milk in each class, the pounds of skim milk received during the month in bulk fluid milk products from other Federal order plants not regulated under any New England Federal order, if classified and priced as Class I milk under the other Federal order or subject to such classification and pricing if assigned to Class I milk under this order.

(9) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month from other Federal order plants not regulated under any New England Federal order in other source milk in the form of fluid milk products classified and priced other than as Class I milk under the other order.

(10) During the months of July through November, subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or 15 percent of the pounds of skim milk in the receipts of producer milk, whichever is less.

(11) At pool plants pursuant to § 1015.3(c)(2), subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants not regulated under any New England Federal order and not previously assigned, whichever is less.

(12) Subtract from the remaining pounds of skim milk in Class II milk, a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants regulated under the provisions of another New England Federal order, whichever is less.

(13)(i) Subtract from the remaining pounds of skim milk in each class, respectively, in accordance with the classification assigned pursuant to §§ 1015.-22(a)(2) and 1015.42(b), a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from other pool plants subject to a zone price differential, whichever is less.

(ii) Subtract from the remaining pounds of skim milk in each class, respectively, in accordance with the classification assigned pursuant to § 1015.22(a)(2), a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from other pool plants not subject to a zone price differential, whichever is less.

(14) Add to the remaining pounds of skim milk in Class II milk, the pounds of skim milk subtracted pursuant to subparagraph (10) of this paragraph.

(15) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds

of skim milk in inventory of fluid milk products on hand at the beginning of the month.

(16) Add to the remaining pounds of skim milk in Class II milk, the pounds of skim milk subtracted pursuant to subparagraph (7) of this paragraph.

(17) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month from other Federal order plants not regulated under any New England Federal order in other source milk in the form of fluid milk products classified and priced other than as Class I milk under the other order and not assigned pursuant to subparagraph (9) of this paragraph.

(18) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from other pool plants and not assigned pursuant to subparagraph (13) of this paragraph: *Provided,* That the receipts of fluid milk products shall be assigned to any remainder of skim milk in Class I milk in sequence beginning with receipts from the plant nearest to Hartford, Connecticut.

(19) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants regulated under the provisions of another New England Federal order and not assigned pursuant to subparagraph (12) of this paragraph.

(20) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from other Federal order plants not regulated under any New England Federal order and not assigned pursuant to subparagraphs (8) and (11) of this paragraph.

(21) Assign to the remaining pounds of skim milk in each class, beginning with Class I milk, in sequence, the pounds of skim milk in receipts during the month of pool milk from the following sources:

(i) Receipts of milk directly from producers, and

(ii) Receipts of pool milk pursuant to § 1015.4(g)(2)(i): *Provided,* That the receipts of pool milk assigned to skim milk in Class I milk pursuant to this subdivision shall be assigned to transferor-plants in sequence beginning with the receipts from the plant nearest to Hartford, Connecticut.

(22) Any remaining pounds of skim milk in each class not assigned shall be known as "overage".

(c) Allocate butterfat in accordance with the same procedure prescribed for skim milk in paragraph (b) of this section.

(d) Add together in each class the pounds of skim milk and butterfat allocated to pool milk pursuant to paragraphs (b) and (c) of this section.

8. In § 1015.25, the introductory text and paragraph (b) are revised to read as follows:

§ 1015.25 Shrinkage.

In computing shrinkage for the purposes of § 1015.21 (b)(5) and (6), the market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in pool milk pursuant to § 1015.4(g) (1) and (2)(i), in pool milk pursuant to § 1015.4(g)(2) (ii) and (iii) and (3) and other source milk, and in receipts from pool plants in the following manner:

* * * * *

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section among the pounds of pool milk pursuant to § 1015.4(g) (1) and (2)(i), pool milk pursuant to § 1015.4(g)(2) (ii) and (iii) and (3) and other source milk, and receipts from pool plants:

9. In § 1015.30(a), the introductory text and subparagraph (1)(i) are revised to read as follows:

§ 1015.30 Reports of receipts and utilization.

(a) On or before the 8th day and after the end of each month, or not later than the 10th day after the end of each month if the report required by this paragraph is delivered in person to the office of the market administrator, each pool handler with respect to each of his pool plants, partially regulated distributing plants, and plants fully regulated under a Federal order providing for individual-handler pooling, and also with respect to milk diverted under the conditions of § 1015.2(e), or lost or destroyed pursuant to § 1015.4(f), shall report to the market administrator, in the detail and on forms prescribed by the market administrator, for such month:

(1) * * *

(i) The receipts of producer milk (including such handler's own farm production) and pool milk other than producer milk.

10. In § 1015.31, paragraph (a)(4) is redesignated as paragraph (a)(5) and new paragraphs (a)(4) and (c) are added to read as follows:

§ 1015.31 Other reports.

(a) * * *

(4) Within five days after his first receipt of fluid milk products during the month from each plant which is neither a fully regulated plant nor a producer-handler's plant under Federal Order No. 2 or any of the New England Federal orders, each handler who operates a pool plant shall file with the market administrator a report showing the identity of the operator of the shipping plant, the plant location, the quantities of bulk and of packaged fluid milk products received, and such other information respecting any such receipt as the market administrator may require: *Provided,* That until such time as full information relative to the receipts and utilization during the month at any shipping plant located not more than 400 miles from Boston, Massachusetts, is submitted to the market administrator, it shall be considered with respect to any receipts of fluid milk products in bulk that such shipping plant is a distributing plant for unregulated markets.

* * * * *

(c) For any month in which it is claimed that the farms of some of the dairy farmers from whom he received milk are located in a nearby farm location differential area, each handler from whose plant pool milk other than producer milk is moved to a pool plant, and each handler who distributes pool milk on routes in the marketing area from a partially regulated distributing plant or a plant fully regulated under a Federal order providing for individual-handler pooling, shall file with the market administrator a report showing the name, post office address, and farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 5 days after the market administrator's request made not earlier than the 22d day after the end of the month.

11. In § 1015.40 the introductory text is revised to read as follows:

§ 1015.40 Class prices.

Subject to the provisions of § 1015.42, the minimum class prices per hundredweight of pool milk containing 3.7 percent butterfat shall be as follows:

12. In § 1015.42, the words "to producers" in the introductory text are revised to "for pool milk" and the text of paragraph (b) as it appears immediately preceding the table therein is revised to read as follows:

§ 1015.42 Zone price differentials.

* * * * *

(b) The zone price differentials for each plant shall be those applicable to its zone location as shown in the table at the end of this paragraph. For the purpose of applying such zone price differentials, transfers of fluid milk products in bulk between pool plants shall be first assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1015.24(b)(12), and the comparable step in (c): *Provided,* That where the transferee-plant is not subject to a zone price differential such remaining Class II milk shall be reduced, during each of the months of December through June, by an amount equal to five percent of the Class I utilization at such plant or remaining Class II use, whichever is less, and any amount so subtracted shall be assigned to available receipts of pool milk (except pool milk pursuant to § 1015.4(g)(2) (ii) and (iii) and (3)) at such transferee-plant and then to transferor-plants in sequence beginning with the plants nearest to Hartford, Connecticut. The assignment of remaining Class II milk to transferor-plants shall be made in sequence according to the zone price differential applicable at each plant beginning with the plant most distant from Hartford.

13. In § 1015.45, the reference "§ 1015.46," is deleted.

14. Section 1015.46 is revoked, and § 1015.47 is vacated and the provisions

formerly contained therein are revised and are now contained in § 1015.46 and read as follows:

§ 1015.46 Other Federal order plants.

Any plant qualifying for pooling under this and any other Federal order providing for marketwide pooling and which is fully regulated under such other Federal order notwithstanding its status under this order shall be exempt from the provisions of this order except as provided in §§ 1015.30(b), 1015.33 and 1015.34: *Provided,* That if such plant disposes of pool milk on routes in the marketing area, it shall be subject to the provisions of this order in its capacity as a partially regulated distributing plant.

15. The center head "Determination of Uniform Price to Producers" preceding § 1015.50 is revised to read "Determination of Uniform Price for Pool Milk".

16. Section 1015.50 is revised to read as follows:

§ 1015.50 Computation of the value of fluid milk products for each pool handler.

For each month, the market administrator shall compute the value of fluid milk products for each pool handler as follows:

(a) Multiply the quantity of pool milk in each class computed pursuant to § 1015.24 by the applicable class price: *Provided,* That the class prices applicable to pool milk other than producer milk shall be subject to the differentials set forth in the table in § 1015.42(b) which are applicable at the location of the plant from which such pool milk was received.

(b) Multiply the quantity of other source milk assigned to Class I milk pursuant to § 1015.24 (b)(3) and (c) by the Class I price applicable at Hartford, Connecticut, as computed pursuant to § 1015.40.

(c) Multiply the quantities of other source milk assigned to Class I milk pursuant to § 1015.24 (b) (4), (5), (9), and (17) and (c) by the Class I price computed pursuant to § 1015.40 applicable at the zone location of the plant from which the other source milk was received.

(d) Multiply the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat, respectively, was allocated to Class II milk in the preceding month, by the hundredweight of skim milk and butterfat, respectively, subtracted from Class I milk pursuant to § 1015.24 (b)(15) and (c) for the month which is in excess of the hundredweight of skim milk and butterfat, respectively, allocated to Class II milk pursuant to § 1015.24 (b) (18), (19), and (20) and (c) during the preceding month and classified and priced as Class I milk under the provisions of any Federal order.

(e) Multiply the quantity of overage computed pursuant to § 1015.24 (b)(22) and (c) by the applicable class price adjusted by the butterfat differential computed pursuant to § 1015.61.

(f) For each partially regulated distributing plant and each plant fully regulated under a Federal order providing for individual-handler pooling, multiply the quantity of pool milk disposed of on routes in the marketing area from such plant by the Class I price computed pursuant to § 1015.40 applicable at the zone location of the plant.

(g) Multiply the quantity of other source milk assigned to Class I milk pursuant to § 1015.24 (b)(3) and (c) by the Class II price applicable at Hartford, Connecticut, as computed pursuant to § 1015.40.

(h) Multiply the quantities of other source milk assigned to Class I milk pursuant to § 1015.24(b) (4), (5), (9), and (17) and (c) by the Class II price computed pursuant to § 1015.40 applicable at the zone location of the plant from which the other source milk was received.

(i) Add together the values resulting from the computations described in paragraphs (a) through (f) of this section and subtract therefrom the values resulting from the computations described in paragraphs (g) and (h) of this section. The remainder shall be known as the value of fluid milk products.

17. In § 1015.51, paragraphs (a), (c), (f), and (g) are revised to read as follows:

§ 1015.51 Computation of the basic uniform price.

* * * * *

(a) Combine into one total the value of fluid milk products computed pursuant to § 1015.50, for each handler who made the reports prescribed in § 1015.30 (a) for the month and who was not in default of payments pursuant to § 1015.65 for the preceding month.

* * * * *

(c) Subtract for each of the months of April, May and June an amount computed by multiplying the total hundredweight of pool milk for such month by 15 cents;

* * * * *

(f) Divide the resulting amount by the total hundredweight of pool milk included under paragraph (a) of this section.

(g) Subtract not less than 4 cents nor more than 5 cents. The result is the "basic uniform price" for pool milk containing 3.7 percent butterfat received at a plant to which no zone price differential is applicable.

18. The center head "Payments" preceding § 1015.60 is revised to read "Payments by Handlers Directly to Producers and to Associations of Producers".

19. A new center head "Differentials" is added preceding § 1015.61.

20. In § 1015.62, the text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 1015.62 Zone price differentials.

* * * * *

(b) The uniform price for pool milk other than producer milk shall be subject to the differentials set forth in column C of the table in § 1015.42(b) which is applicable at the location of the plant from which such pool milk was received or distributed.

21. In § 1015.63 a new paragraph (c) is added to read as follows:

§ 1015.63 Nearby farm location differentials.

* * * * *

(c) The uniform price for pool milk other than producer milk shall be subject to the applicable differentials for milk received from farms located in the areas set forth in paragraphs (a) and (b) of this section. In applying the differentials such pool milk shall be considered to have been delivered from farms of dairy farmers located in such areas in quantities computed as follows: Divide the respective quantities of milk received directly from dairy farmers' farms located in each nearby farm location differential area at the plant from which the pool milk was received or distributed by the total receipts of fluid milk products at the plant, multiply by 100, and apply each of the resulting percentages to the total quantity of pool milk other than producer milk received or distributed from such plant: *Provided,* That until such time as full information relative to the receipts at the plant from dairy farmers, including the respective quantities of milk received from dairy farmers' farms in each farm location differential area, is submitted to the market administrator, it shall be considered that none of the farms from which milk was received at the plant is located in any nearby farm location differential area.

22. A new center head "Producer-Settlement Fund" is added preceding § 1015.64.

23. Section 1015.64 is revised to read as follows:

§ 1015.64 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit (a) all payments made by handlers pursuant to §§ 1015.65, 1015.67, and 1015.68 and out of which he shall make all payments to handlers pursuant to §§ 1015.66 and 1015.67: *Provided,* That the market administrator shall offset any such payment due to any handler against payment due from such handler; and (b) all amounts subtracted pursuant to § 1015.51(c), which shall remain therein as an obligated balance until it is withdrawn for the purpose of effectuating § 1015.51(d).

24. Section 1015.65 is revised to read as follows:

§ 1015.65 Payments to the producer-settlement fund.

On or before the 19th day after the end of each month, each handler, including an association of producers which is a handler, shall pay to the market administrator for deposit in the producer-settlement fund the amount by which

the value of fluid milk products computed for the handler pursuant to § 1015.50 is greater than the sum of (1) the amount required to be paid his producers, and (2) the value of his receipts of pool milk other than producer milk, both as determined by the application of the basic uniform price computed pursuant to § 1015.51 adjusted by the differentials applicable pursuant to §§ 1015.62 and 1015.63.

25. In § 1015.66, the text immediately preceding the proviso, is revised to read as follows:

§ 1015.66 Payments out of the producer-settlement fund.

On or before the 21st day after the end of the month, the market administrator shall pay to each handler the amount by which the sum of (1) the amount required to be paid his producers, and (2) the value of his receipts of pool milk other than producer milk, both as determined by the application of the basic uniform price computed pursuant to § 1015.51 adjusted by the differentials applicable pursuant to §§ 1015.62 and 1015.63, is greater than the value of fluid milk products computed for the handler pursuant to § 1015.50.

26. A new center head "Errors In Payments" is added preceding § 1015.67.

27. A new center head "Adjustment of Overdue Accounts" is added preceding § 1015.68.

28. In § 1015.68, the reference "1015.-46" is deleted.

29. A new center head "Marketing Service Deductions" is added preceding § 1015.69.

30. A new center head "Administration Expense" is added preceding § 1015.-70.

31. In § 1015.70, paragraphs (a) and (b) are revised to read as follows:

§ 1015.70 Expense of administration.

* * * * *

(a) In the case of pool plants, the payment shall apply to all receipts during the month of pool milk, including the handler's own production, exempt milk under § 1015.4(h)(1), and other source milk assigned to Class I milk: *Provided,* That such payment shall not apply to receipts which are subject to an expense of administration assessment under another Federal order.

(b) In the case of partially regulated distributing plants, the payment shall apply to the quantity of pool milk disposed of from such plant in the marketing area on routes.

32. A new center head "Obligations" is added preceding § 1015.71.

Signed at Washington, D.C., on June 7, 1963.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 63-6220; Filed, June 13, 1963; 8:45 a.m.]

[7 CFR Parts 1002, 1015]

[Docket Nos. AO-71-A 43, AO-305-A 8]

MILK IN NEW YORK-NEW JERSEY AND CONNECTICUT MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the New York-New Jersey and Connecticut marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 21st day after publication of this decision in the FEDERAL REGISTER. Five copies of the exceptions should be filed with the Hearing Clerk. A copy should be filed also with the Department of Agriculture and Markets, Division of Milk Control, Albany 1, New York, and with the New Jersey Department of Agriculture, Office of Milk Industry, Post Office Box No. 1999, Trenton 8, New Jersey.

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at New York, New York on September 5-12 and 18-21, 1962, pursuant to notice thereof which was issued August 8, 1962 (27 F.R. 8183).

The material issue on the record of the hearing relates to the question of how to preserve for the New York-New Jersey market an effective classified-price plan and marketwide pool for distributing the proceeds accruing to milk produced for the market in the absence of the application of compensatory payments declared invalid by the Supreme Court of the United States in the case of Lehigh Valley Cooperative Farms, Inc., et al., Petitioners v. United States et al.

More specifically, to achieve this objective, the following matters require decision in formulating appropriate new regulatory provisions which will maintain orderly marketing conditions in the nation's largest fluid milk market (discussed herein in this sequence);

I. What milk should be priced and pooled, and how should marketing area fluid milk, if any, not so priced and pooled be regulated.[1]

II. How should milk received by a handler from several different sources be assigned to such handler's gross classification of milk.

III. Should the three western counties of New Jersey (Sussex, Warren, and Hunterdon) be eliminated from the marketing area so as to remove from regulation certain handlers in Eastern Pennsylvania who distribute milk in such counties.

IV. How should milk received by a New York-New Jersey plant from plants under other Federal orders be related to the revised pricing and pooling plan.

V. What additional conforming amendments need to be made.

Findings and conclusions. The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

I. To maintain orderly marketing conditions in the New York-New Jersey market, Order No. 2 should be amended to provide (1) more comprehensive provisions for pooling milk introduced into the marketing area, and (2) a modified method of integrating into the regulatory plan milk from sources which do not meet the provisions for pooling. Complementary changes should be made in the application of the order to milk received from, and milk disposed of to, plants under other Federal orders.

In pursuit of the above objective in the New York-New Jersey market, it is necessary that the regulatory program continue to accomplish the following:

1. Require each handler who enjoys the benefits of pooling to make his milk supplies available to the Class I-A[2] market when needed.

2. Prevent the "dumping" on the market of the seasonal and short-time surpluses of nearby fluid markets.

3. Provide an effective method of pooling bulk tank milk so that a handler may not shift milk into and out of the pool for temporary financial benefit to himself and to the disadvantage of producers generally.

Several proposals were presented at the hearing.

The four major New York-New Jersey cooperative groups proposed and supported a comprehensive pooling plan which would apply to all plants and bulk tank units from which Class I-A milk originates and would tend to mini-

[1] Official notice is taken of the following decisions of the Secretary of Agriculture relating to the New York-New Jersey milk order, or to its predecessor, the New York Metropolitan milk order in connection with the findings and conclusions of this decision: December 14, 1953 (18 F.R. 8444); June 10, 1957 (22 F.R. 4194); August 4, 1958 (23 F.R. 6050); and September 13, 1961 (26 F.R. 8847).

[2] The order distinguishes between Class I (fluid) milk disposed of within the marketing area (Class I-A) and Class I milk disposed of outside the marketing area (Class I-B).

mize the quantities of unregulated milk distributed as Class I–A. This general plan was supported also by an association representing New York-New Jersey regulated handlers.

Essentially, the proposal would extend the regulation to virtually all plants with disposition of Class I–A milk in the New York-New Jersey marketing area, but with various options which any handler primarily associated with other fluid markets might elect in order to adjust to the regulation with minimum impact on his operations in such other fluid markets. Complementary changes were proposed which relate to the pooling of milk in bulk tank units.

A cooperative association and a proprietary handler, each with fluid milk processing and packaging (distributing) plants in Pennsylvania, proposed that any unregulated handler disposing of Class I–A milk on routes should have no obligation to the producer-settlement fund if the total payments to dairy farmers at his unregulated distributing plant were at least as great as the value of the milk receipts computed at the New York-New Jersey order's class prices. The proposal provided that in the event payments to dairy farmers were less than this amount, the difference should represent such plant's obligation to the producer-settlement fund. These parties further proposed that if Class I–A milk is disposed of from a plant regulated by any other Federal order, or an order issued by a State regulatory agency, payments to the producer-settlement fund should be required only when the classified use value of the plant's milk at the class prices provided by such other order are less than the value of such milk at the class prices of the New York-New Jersey order. Payments to the New York-New Jersey producer-settlement fund would be required in an amount equal to such difference.

The above proposals were intended to apply only to distributing-type plants. Although proponents suggested that the proposals might be modified so as to apply also to other nonpool (supply-type) plants from which Class I–A milk is received, no specific plan was offered to accomplish this objective.

The proposal of another cooperative would grant a nonpool handler the choice of (1) paying compensatory payments at the difference between the Class I–A and Class III price on any Class I–A milk disposed of from his plant, or (2) paying the order's classified use value for all dairy farmers receipts at his plant to his own farmers, or by combination of payments to his dairy farmers and payments to the order's producer-settlement fund.

A representative of the State of Wisconsin offered a plan under which nonpool milk received at a pool plant would be prorated to all uses of milk and treated in the same manner as producer milk with respect to application of the order's class prices.

Representatives of handlers regulated by the Philadelphia Federal milk order suggested that plants with fluid milk distribution in more than one Federal order market be regulated by the order in which the greatest volume of such milk is distributed, regardless of whether such orders provide for marketwide or individual-handler pooling. This general approach was supported also by a Philadelphia producer association.

Basis and requirements for marketwide pooling. Since its inception in 1938 the New York-New Jersey order has provided for the marketwide pooling of producers' returns. Each regulated handler is required to account for his receipts of milk from producers at the applicable minimum class prices established under the order. Except for specifically authorized differentials, such prices are uniform with respect to each use classification and with respect to each pool handler. The returns derived from the classified values of milk are paid to the individual producers supplying the market on the basis of a weighted average, or blended, price per hundredweight (with certain authorized differentials) of milk delivered based upon all use classification for all handlers in the market.

In conjunction with classified pricing, marketwide pooling, determined following hearings to be appropriate under conditions in this market, has been an indispensable mechanism for stabilizing milk marketing conditions in this market.

Just prior to the institution of the Federal milk order in the New York-New Jersey market, prices paid to dairy farmer suppliers of the market were at very depressed levels. In general, they were little, if any, above prices paid for milk of manufacturing quality even though milk produced for this market was produced in compliance with strict sanitary regulations. Indeed, there were situations where the value of milk was less than its manufacturing value by the costs necessarily incurred in moving it to a distant manufacturing plant. The reason for these depressed prices primarily was that an excess of milk above the quantity which could be used in whole fluid form was being produced and delivered to market. It was demonstrated that whenever any significant excess of milk was produced for the fluid market, prices would fall to the level of manufacturing milk prices.

The major problem now, as it was when the order was first established, is to maintain orderly marketing for milk in this market in a situation where in order to assure consumers of sufficient quantities of milk at all times, it is necessary that more milk be produced and delivered to market than can be used as fluid milk. In the absence of regulation, the maintenance of a necessary reserve of milk above Class I requirements has a depressing effect upon the prices for all uses of milk, including producer returns and an unstabilizing effect on the marketing of milk in the area. The institution of a classified pricing plant and marketwide pooling through the Federal milk order is the means for achieving adequate and dependable supplies for consumers (which includes the necessary reserve) without the unstabilizing conditions and depressed prices to producers which would otherwise result.[3]

Under marketwide pooling all producers for the market share proportionately in the Class I market regardless of the individual handler's use of the milk. At the time the order was first issued all milk qualified under the applicable health requirements and available for sales in the defined market was made eligible for pooling and, therefore, there was no problem of unpriced milk entering the market to compete with that subject to minimum pricing under the order.

It developed, however, under early order provisions, that when plants were permitted to share in the marketwide pool without any standard of delivery performance, there was strong incentive for supply plants to hold milk at the plant for manufacturing instead of shipping it to the fluid market to meet market needs. In spite of substantial volumes of milk in the pool above actual requirements for fluid use, handler-buyers of milk in the fluid market at times could not obtain needed quantities at reasonable prices. As a result the order was revised, after hearing, to require a handler (or cooperative handler) to meet certain performance requirements in order to continue participation in the marketwide pool.

While the adoption of these performance standards was necessary to assure that sufficient milk would be made actually available to supply Class I–A needs, their adoption at the same time created the potentiality for milk to be available which was not marketed in accordance with the standards, and was thus not regulated. It became evident that the unregulated supplies, if allowed to enter the market without some means of removing the competitive advantage which otherwise would attach to them, could render the regulatory plan ineffective.

Without appropriate means for dealing with unregulated milk which is disposed of as Class I–A in the regulated market, handlers using regulated producer milk for Class I–A purposes could not compete on equal terms with other operators using unregulated milk. If regulated handlers are not adequately protected from the competition of unregulated milk they would, of course, be compelled to use unregulated milk themselves to maintain their competitive position in the regulated market.

Some action therefore is necessary to neutralize any competitive price advantage which unregulated milk may have over regulated milk. Not to take such action would be to favor, in relation to handlers and producers who provide the

---

[3] In upholding the marketwide equalization provisions, the Supreme Court of the United States has stated, "The pool is only a device reasonably adapted to allow regulation of the interstate market upon terms which minimize the results of the restrictions. It is ancillary to the price regulation designed, as is the price provision, to foster, protect and encourage interstate commerce by smoothing out the difficulties of the surplus and cut-throat competition which burdened this marketing. See United States vs. Rock Royal, 307 U.S. 533 (1939).

regular, dependable and continuing sources of supply for the regulated market, those operators who seek Class I–A outlets in the regulated market on a temporary or sporadic basis or those handlers who do most of their business in unregulated markets but have limited route sales in the marketing area.

In order to prevent unpriced milk from destroying the regulatory scheme, the order, until July 1, 1962, contained a provision for a payment into the producer-settlement fund by handlers using milk in the Class I–A market, which milk was not subject to the marketwide pooling provisions. The effect of this payment, known as a "compensatory payment", assured regulated handlers that unregulated milk entering the market for this purpose could not be purchased at a price advantage relative to fully regulated (producer) milk. The supplier of the unregulated milk was credited with a price on the milk reflecting a value as surplus and the marketwide pool received the balance of its value as used in Class I–A. The imposition of a compensatory payment on the unregulated handler thus was intended to neutralize the competitive advantage for milk not under full regulation.

While the Supreme Court ruled that a compensatory payment on nonpool milk as applied in the circumstances involving the Lehigh Valley Cooperative and Suncrest Farms was inconsistent with the terms of the Act, the Court also recognized that because of the manner in which Federal orders function "it is quite obvious that under certain circumstances some regulations of such milk may be necessary." Unless the order contains provisions which adequately relate milk not subject to pooling to the total scheme of regulation, the very existence of the order, designed as it is to stabilize the market in the manner prescribed by statute, may establish the condition which makes attainment of such stabilization impracticable.

The advent of the bulk tank delivery system for the delivery of milk from farms to market expanded certain pricing and pooling problems under the order. Order amendments made effective December 1, 1961, were designed, in conjunction with the simultaneous and complementary use of compensatory payments, to overcome such problems.

Under the bulk tank handling of milk, a farmer puts his milk production in a bulk cooling tank located on his farm. The milk is picked up at the farm by a tank truck and is pumped directly from a farm tank into the tank truck.

It is at the farm, therefore, that the milk is measured, sampled and tested for butterfat, and loses its identity in the event that the receipts from more than one farm are included in the tank truck. Milk so handled can be transported long distances from the farm before it enters a plant.

This type of handling made it possible for a handler under the New York-New Jersey order to haul milk from farms directly to nonpool plants when it was to his advantage to keep such milk out of the marketwide pool, and to haul the milk to a pool plant on such days as the handler did not have an advantageous outside market outlet for the milk. Such delivery to a pool plant meant that the milk was subject to the pricing and pooling provisions of the New York-New Jersey marketing order.

With the development of the farm bulk tank system of supplying milk to plants, and with the method of pooling bulk tank milk which was included in the order effective December 1, 1961, the significance of pool plant designation becomes somewhat less important since a pool plant which receives only bulk tank milk does not necessarily pool any of such milk on plant qualification but rather "pooling" is on the basis of "bulk tank units". The pooling provisions with respect to bulk tank milk also contain, however, requirements which must be met for continued pooling. Such provisions are designed to complement the pool plant provisions.

The December 1961 amendments with respect to the pooling of bulk tank milk were designed to require a handler to determine on a long-term basis whether he wanted milk from a particular farm pooled or not pooled. Under the provisions he was permitted to change the pool status of bulk delivery farms to meet his long-term changes in requirements for a milk supply. He was not, however, permitted to shift a farm in and out of the pool at will, with the effect of pooling his lower valued surplus over fluid needs and not pooling the outside fluid sales associated with the surpluses which he pooled.

To prevent burdening the pool with the surplus of other markets, the order provided (prior to the suspension order of July 1, 1962) that milk removed from marketwide pool regulation and later made subject to regulation under this order would be treated as nonpool milk and subject to compensatory payments if used in Class I–A milk in the marketing area by the handler who had made the milk nonpool. Following the Lehigh case, the compensatory payment provisions of the order were suspended effective July 1, 1962, together with certain other provisions which revised the requirements for pooling on a temporary basis.

Revised pooling requirements (pool plants and pool bulk tank units). The effect of the Lehigh decision is to render more difficult the protection of the regulatory plan from the unstabilizing effects of milk not subject to marketwide pooling under this or another Federal order when introduced into the Class I–A market. Therefore, it is appropriate to hold to a minimum the opportunity and potentiality for such milk to enter the market free of full regulation.

The provisions contained herein are designed to pool all Class I–A milk associated with the regulated market. Where practicable, however, various options are provided which will permit certain handlers to participate fully in the marketwide pool, or in some cases to minimize the impact of the regulation on their overall operations.

One such option would pool any plant with a total Class I utilization at least as great as the market's average in any month in which it disposes of at least 800 pounds of milk per day as Class I–A in the New York-New Jersey market. Other options would permit such a plant to avoid regulation under this order on all milk except that disposed of as Class I–A. Whether or not the total dairy farmer receipts at such a plant are to be pooled under this order will depend on the specific alternative selected by the handler. The option of full pooling may be afforded the operator of such a plant since, in this instance, full pooling will not be to the disadvantage of the pool and will provide an appropriate means of achieving uniform class pricing on milk disposed of in the regulated area.

This additional option of full pooling should not be provided, however, for a low utilization plant which does not otherwise meet the requirements for full pooling as a regular or temporary pool plant. There is an economic incentive for such low utilization plants primarily associated with other markets (either fluid or manufacturing) to become fully regulated by an order with marketwide pooling only for the purpose of sharing in the market's blend price. To fully pool this kind of plant on the basis of minor or sporadic shipments without meeting specified pooling standards would dilute returns to regular pool producers without the assurance that the plant's milk supply would be available to the market on a regular and continuing basis. The order will continue to provide appropriate means by which low utilization plants may achieve pool status.

To accomplish these objectives, the present order requirements for pool plant qualification should be modified in certain respects from those effective prior to the temporary suspension action of July 1, 1962. The basis for pooling milk in bulk tanks also should be revised to complement the changes in pool plant requirements.

The requirements with respect to pooling under the New York-New Jersey order should continue to be aimed at fully pooling the milk of those plants and farms which regularly serve the Class I–A market. However, as discussed below, there is need to adopt additional provisions which will integrate into the regulatory scheme milk from various sources which does not meet, or fails to maintain, the requirements for pooling under this order. In order to effectuate the pooling of plants and bulk tank units, certain definitions are included which group plants and bulk tank units into two general categories: (1) "pool plants" and "pool bulk tank units", and (2) "partial pool plants" and "partial pool bulk tank units". Partial pool plants and partial bulk tank units are those which do not meet the order performance requirements for full pooling.

To accommodate the application of other order provisions, a further distinction is made in pool plants as follows: (1) fluid milk processing and packaging plants, and (2) plants primarily engaged in manufacturing operations or plants supplying such manufacturing plants. By definition, a "fluid milk processing and packaging plant" must have a percentage of milk in Class I (both Class

I–A and I–B) as high as the market's utilization percentage for the same month of the preceding year. The comparable Class I utilization percentage factor for fluid milk plants under the present order is 55 percent in all months of the year. Relating such factor to the market's Class I utilization for the same month of the preceding year will give appropriate recognition to month-to-month seasonal changes in producer milk deliveries.

Application to fluid processing plants and associated bulk tank units. The greatest potential for unpriced milk to cause disruption in this market, and the problem of providing suitable regulation for such, arises from fluid milk processing and packaging plants located outside the marketing area from which routes are operated both in and outside the marketing area along its extensive perimeter. Any such plant should become a pool plant if its Class I–A sales in the marketing area are greater than 800 pounds per day. However, such a "fringe-area" plant selling over 800 pounds per day should be excused from pool plant status when (1) it does not meet the other pooling requirements of this order and its Class I–A utilization is covered by receipts of milk classified and priced under a Federal order with marketwide pooling, or (2) the plant is subject to another Federal order with marketwide pooling.

The marketing area under the New York order, as expanded in 1957, includes Metropolitan New York, northern New Jersey and 35 counties in upstate New York immediately northwest of Metropolitan New York. Wherever the boundaries of the marketing area are drawn, some handlers whose plants are located in the regulated area will have some sales outside the area and some dealers whose primary fluid business is outside the regulated area will have routes extending into the area. The latter type handler, commonly known as a "fringe handler", generally prefers not to have his fluid sales in unregulated markets pooled and yet does not want his in-area route sales treated so as to return only a surplus value.

Previous to the July 1 suspension of compensatory payments the fringe handler who was not fully pooled under another marketwide pool order was subject to full regulation under this order unless he elected to pay compensatory payments on his in-area sales at the difference between the Class I–A and surplus prices.

The past order provisions, which offered such handlers the options of either full pooling or compensatory payment were the particular matters which led to attack in the courts and consequently to the invalidation of the compensatory payment provisions as to such operations.

Exemption of such a handler from the regulation would provide him with an advantage on marketing area sales over the fully regulated handler who has all his milk priced by the order, including any Class I distribution he has outside the marketing area. Full regulation of the fringe handler under this order or under another marketwide pool order would remove his competitive price advantage over other handlers currently under the order. In the absence of other appropriate alternatives to the past compensatory payment provisions, full regulation is absolutely essential to remove the competitive price advantage which attaches to the Class I–A milk of such a handler.

It is recognized, on the other hand, that full regulation of some fringe handlers might place them at some disadvantage in their principal areas of distribution as compared to their competitors doing business entirely outside the defined New York-New Jersey marketing area. Therefore, in order to permit fringe handlers who do not otherwise meet the full pooling requirements of a marketwide pool order to adjust to the marketing order with relative ease, each handler should be afforded various options which will permit him to limit the impact of regulation in relation to the particular circumstances surrounding his individual operation and yet assure that the regulation will not be eroded away.

First, such a fringe handler should be eligible to keep his plant nonpool, and be permitted to establish a pool bulk tank unit of sufficient size to cover his in-area Class I–A sales. With such a provision, the farmers in his pool bulk tank unit would become producers under the order. The milk of such farmers would be classified and priced in the same manner as producer milk received by other handlers subject to the regulation and be pooled in the same manner as the milk of other producers. The fringe handler could then keep his outside fluid sales outside the regulation.

In order to prevent such a fringe handler from assigning an undue portion of the surplus milk of his entire operation to his pool bulk tank unit, however, it will be necessary to provide that the unit would not be a pool unit in any month in which such unit's percentage of milk in both Class I–A and Class I–B milk falls below the utilization percentage for the market in the same month of the previous year. In any instance where the unit fails to qualify as a pool unit on the above basis, the revised pooling provisions would be applied to the dairy farmer milk at the plant from which the Class I–A milk is disposed.

Secondly, the fringe handler should have the option of purchasing the needed quantities of milk for his Class I–A sales from any source that is subject to the pricing and payment provisions of any order with a marketwide pool, thereby avoiding regulation of his fluid operation in other markets. Permitting a fringe handler to purchase such quantities from a marketwide pool source will provide an additional alternative to full regulation for such handlers, and at the same time will serve to eliminate any price advantage on the milk distributed in the marketing area.

A further provision is included to deal with the handler with only very small sales in the marketing area. The distributing plant of a fringe handler who has Class I–A milk in a quantity less than 800 pounds a day (approximately equivalent to one retail distribution route) should not be required to become a pool plant under the New York-New Jersey order. A fringe handler with this minor quantity of Class I–A sales is not a significant competitive factor in the market and therefore should be exempted from the regulation.

In addition to the fringe handlers who operate routes both within and outside the New York-New Jersey marketing area, there are fluid processing and packaging plants in proximity to the marketing area which are not regulated by a marketwide pool order and which do not engage in the distribution of milk on routes in the marketing area but which have available from time to time quantities of milk which are surplus to their route sales in such other fluid markets. These supplies of milk are potential sources of unregulated milk for bulk sale in the Class I–A market on an opportunity basis. In some instances, the outside fluid processing and packaging plant customarily is supplied by country supply-type plants or receiving stations from which the outside market supply similarly may be made available in bulk directly to the New York-New Jersey Class I–A market on an opportunity basis.

The market normally has received supplies of milk from plants whose highway mileage from Metropolitan New York does not exceed 400 miles. Within the area of 400 miles from Metropolitan New York are located most of the urban markets of the Northeastern United States. Milk distributors supplying these markets can ship in bulk any of their milk receipts in excess of their own fluid sales into the New York-New Jersey fluid market, and if such outlet provides a better return than surplus outlets, they, of course, would do so. If any such operators not under a Federal order were allowed to pool only the bulk milk actually shipped into the New York-New Jersey market, they always would have a market for their surplus milk which would return them the New York-New Jersey uniform price. When milk usually used for distribution in fluid form outside of the New York-New Jersey market is no longer used for that purpose and when, therefore, it normally would need to be disposed of as surplus milk at a surplus value, the pooling of it under this order would give the unregulated shipper of such milk a price advantage approximately equal to the difference between the Class III price and the blended price.

Within this 400-mile area there are several dairy concerns with divisions supplying both the New York-New Jersey marketing area and other fluid markets. Such chain operators particularly, because of the inherent flexibility of their situation in operating multiple plants, would be in a position to exploit this condition. For example, such a company which operates a distributing plant for an outside market and one or more supply plants for such distributing plant may not need the milk of one of its supply plants for its regular outside market fluid distribution in the flush season. The milk thus is the normal seasonal surplus of its regular fluid dis-

tribution. (The problem is intensified in April, May, and June since it is at this time of the year when a plant is most likely to have a surplus for disposition in the best available market.) It might then sell this entire supply of surplus milk to a New York-New Jersey distributing plant where the milk could become fully regulated and pooled. It is necessary to revise the pooling provisions to prevent the "dumping" of surplus from an outside fluid market on the New York-New Jersey pool. Such dumping depresses returns to the regular producers, and permits the outside plant operator to retain the extra returns derived from the pool funds for himself.

To deal with this situation, any plant within 400 miles of Metropolitan New York which would not otherwise be regulated by a marketwide pool order and has a total Class I utilization in relation to total utilization at least as great as the New York-New Jersey market's utilization percentage for the same month of the previous year should be required to become a pool plant in any month when it disposes of more than a daily average of 800 pounds of milk as Class I-A in the New York-New Jersey market. Further, because of the seasonal changes in supply in relation to fluid milk sales, any such plant which is a pool plant in the months of April, May, or June, and in such months has a Class I-A percentage classification which is greater than the marketwide total Class I percentage, should be required to be pooled in any of the following months of July through March during which the total fluid milk utilization at such plant is greater than 60 percent. In this way, the plant's fluid milk sales made both inside and outside the New York-New Jersey market, as well as its surplus milk, would be pooled. Pooling the plant during the July-March period under these stated conditions will tend to deter those handlers not desiring to share regularly during the low production months in the New York-New Jersey marketwide utilization from qualifying their plants for pooling during the months of April, May, or June for the sole purpose of disposing of milk surplus to their distribution operations in outside markets.

As in the case of the fringe handler, such a plant likewise should be given the option of avoiding pooling by purchasing milk from a marketwide pool source under this or another Federal order to cover such Class I-A sales.

A distributor for an outside fluid market who establishes a pool bulk tank unit for one or more of the months in the April-June period to cover milk disposed of in the Class I-A market likewise should be required to continue to pool the milk of such bulk tank unit for any of the months through the next March in which the classification of the milk in such unit in Class I-B, or Class I-A and Class I-B combined, is at least 60 percent. For the same reason, as just described, that a handler may choose to qualify his plant for pooling during the months of April, May, or June, a handler may similarly choose to establish a pool bulk tank unit to serve this same purpose. The establishment of such a pool bulk tank unit with sufficient milk to cover its marketing area Class I-A sales also permits such distributor to avoid regulation of his total milk supply. Corollary amendments to effectuate this conclusion therefore have been made in the bulk tank pooling provisions.

In summary, the revised provisions generally applicable to plants primarily associated with other fluid markets (other than one with a marketwide pool order) would provide for pooling any such plant in the New York-New Jersey market in any month in which it disposes of Class I-A milk, unless:

(1) The plant's total Class I-A does not exceed 800 pounds per day.

(2) The plant offsets Class I-A sales by purchases of pooled milk from a marketwide pool Federal order and thereby avoids regulation; or

(3) The plant establishes one or more pool bulk tank units to supply its Class I-A sales.

The above pooling provisions applicable to fluid milk processing plants will serve to permit the fringe handler or the handler associated with other fluid markets to minimize the effects of the New York-New Jersey regulatory provisions on his fluid sales in other areas, while insuring that fluid milk disposed of in the New York-New Jersey market is accounted for at the minimum prices provided under this order or under another marketwide pool Federal order.

Other proposals were presented at the hearing which also were designed to minimize the effects of the regulatory provisions on fluid milk processing plants primarily associated with other fluid markets. Such proposals generally were based on the contention that the order's class prices need not be applied to milk disposed of from a fluid milk processing plant if the plant operator returns to his producers at least the New York-New Jersey classified use value for all milk in his plant. A variation of this proposal would recognize pricing under State orders as a criterion for determining whether a plant operator had paid at least the minimum prices provided by the Federal order. These proposals are denied.

The proponents of these alternative methods of dealing with the problem of partial regulation sought the same end result as that obtained by the plan proposed herein—the assurance that no substantial quantity of milk would enter the marketing area without bearing the Class I-A price but exempting handlers with relatively small sales in the area from pooling the entire quantity of milk at such plants.

The plan proposed here whereby plant operators may designate only a portion of a plant's receipts as a regular supply for their sales in the New York-New Jersey marketing area accomplishes this objective in that it exempts that part of the plant's milk supply which is not procured for sale in the regulated market. This degree of exemption will relieve such fringe handlers from the burden of full regulation but will assure that milk which is associated with the regulated market will be pooled in a manner similar to fully regulated milk.

The plan herein adopted, by pooling only those quantities or proportions of milk in a plant which are associated with this market, avoids many of the problems of dealing with partially regulated milk. Thus, it is not necessary to adopt the alternative methods proposed. Moreover, because the plan herein adopted depends upon pooling all milk associated with the market, the alternative proposals would be incompatible because they depend upon exempting from full pooling certain milk associated with the market.

Application to supply-type plants and associated bulk tank units. Milk is received from a large number of supply-type plants. These are plants at which milk from individual farmers is received, weighed, tested and cooled for transshipment in bulk to fluid processing and packaging plants. Supply plants normally do not bottle or distribute fluid milk.

Two measures of marketing performance are specified in the present order by which it may be determined whether supply plants are performing, or will perform, the necessary function of supplying Class I-A milk for the marketing area as needed, while at the same time permitting milk not needed for fluid use to be concentrated efficiently in manufacturing plants.

One measure, involving several provisions, is that, to be pooled, the plant shall ship to the market, during the month, certain proportions of its receipts from producers for Class I-A use. No evidence was presented concerning the need to change these provisions and they should be continued in their present form.

For plants located in New York, New Jersey, and certain portions of Pennsylvania which have met the percentage shipping requirements for 12 consecutive months, a second means of obtaining pool plant status is provided. Upon application any such plant may be designated a "regular" pool plant (commonly referred to as a "designated" pool plant) without any specified month-to-month shipping requirement if certain other specified conditions are met. The principal conditions include maintaining marketing area health approval and pledging the dairy farmer receipts at such plant to the Class I-A market and fulfilling such pledge when called upon to do so. Complementary provisions are included so as to permit pooling of similar "designated" bulk tank units.

In the present circumstances the standards or requirements for qualifying supply plants, bulk tank unit milk at designated pool supply plants, and "designated pool bulk tank units" must be modified.

In the past, compensatory payments at the difference between the Class I-A and Class III price have been an important factor in insuring availability of such milk. A designated pool plant which failed to ship milk to the market when called on to do so was excluded from the marketwide pool for a specified period, and since any Class I-A milk

shipped to the market from such a plant during this period was subject to compensatory payment at the difference between the Class I–A and Class III price, the tendency was for such a plant to retain pool status and insure the availability of such milk.

Therefore, it is now appropriate to include a provision which requires the handler, at the time, and as a condition, of obtaining "designated pool plant" status for a plant to agree to retain under full pooling all Class I–A or I–B milk at the plant from the date of cancellation of such plant's designation for failing to meet any shipping requirement through the following flush production season. This is necessary to guard against failure of the plant operator to make the plant's milk available for the Class I–A market when called upon to do so. Such a requirement will insure that a plant will not obtain designated pool status, and share regularly in the New York-New Jersey marketwide utilization, without at the same time making his milk available to the Class I–A market when needed.

The provisions for obtaining designated pool plant status provide a ready means for a plant to share in the market utilization, i.e., simply by pledging the availability of milk rather than meeting month-to-month shipping requirements. This special pooling privilege must carry with it definite responsibility on such plants to make their milk available to the fluid market or the proceeds from pooling will be dissipated on sources of milk which would not supply the fluid market when it is needed.

A designated pool plant would have little incentive to meet its obligations under this order during the low production months (August through November) if it could readily withdraw from permanent pool status in such months to take advantage of opportunities to sell milk in other fluid markets. Furthermore, such a plant might be encouraged to withdraw from the pool in such months if it could then dispose of its milk supply to plants under a nearby individual-handler pool market and thereby obtain a procurement advantage for the temporary period over New York-New Jersey handlers in the production area who are continuing to fulfill their obligations under this order.

Although the provisions should not unduly restrict the movement of milk between marketwide pool Federal orders during the low production months, provision must be made to assure, however, that the milk will be available for the Class I–A market, particularly in the fall months. This may be accomplished by permitting nonpool status for such a plant during this period (August through November), only when the request for nonpool status is made in order to qualify for full pooling under another marketwide pool order. If such nonpool status is granted for this purpose but the plant fails to meet the pooling standards under such other order in any of the subsequent months through November, it should continue to be subject to pooling under the New York-New Jersey order for any of such months in which its Class I utilization (both Class I–A and I–B) is at least as great as the market's Class I utilization in the same month of the preceding year. In this way designated pool plants will be able to take advantage of opportunities to shift milk to other marketwide pool orders where the milk is needed, but will not be permitted to use the New York-New Jersey pool for special advantage by pooling only when outside sales are not available.

The order contains detailed provisions, which together with the previous compensatory payments, insured the availability as Class I–A of milk in pool bulk tank units. In the absence of compensatory payments as previously provided, complementary amendments must be made in these provisions to implement the pooling provisions with respect to milk in bulk tank units and prevent milk from such units from destroying the classified pricing and marketwide pooling plan by discontinuing their status as pool units contained herein.

Prior to the elimination of compensatory payments at a rate equal to the difference between the Class III and the Class I–A price, a handler eligible to establish a "designated" bulk tank unit who wished to keep any such unit nonpool could choose to make a compensatory payment on any Class I–A disposed of from such unit. With the withdrawal of compensatory payments at the previous rate, this option can no longer be afforded the handler. Therefore, any such handler who uses milk of a nonpool farm or unit in Class I–A now must be required to make such farm or unit a pool unit, even though it has not been declared as such unless the milk is regulated by another marketwide pool order. Moreover, any later shift of such milk to nonpool status, or re-entry to the market, should be handled in the same manner as any such shifts of milk which is included in a declared pool bulk tank unit.

A handler is now permitted to remove farms from designated pool bulk tank units in order to take advantage of opportunities to sell milk of such farms outside the marketing area. This provision should be continued. However, the handler should not be permitted to return immediately such milk to full pooling under the New York-New Jersey order when it is no longer needed for such outside markets. To do so would provide for pooling the surplus of such markets but not the Class I sales. Therefore, if a handler removes farms from pool bulk tank units he should not be permitted to return such farms to full pooling until a specified later date and, in some instances, should not be permitted to add any new farms to a pool bulk tank unit until a specified later date.

If a handler uses in the Class I–A market the milk of farms which are not eligible for inclusion in pool units because of the handler's prior action in removing the milk of such farms from regulation, he should be required to price and equalize the Class I–A and Class I–B milk of such farms through the following June. If the handler has uses other than Class I–A and I–B of pool bulk tank milk in any of his pool units the utilization of all his pool bulk tank units and partial pool bulk tank units should be combined and the milk of the partial pool bulk tank units should be assigned to the other classes (Class II and Class III) before any of such milk is assigned to Class I–A and Class I–B. This latter provision is necessary to avoid, insofar as possible, the pricing and equalizing of the partial pool bulk tank milk.

The order provides that a bulk tank unit made up of farms outside certain areas, in order to be pooled, shall deliver specified percentages of its receipts to pool plants. Prior to July 1, 1962, milk from units not eligible for full pooling as designated pool units and which failed to meet the specified delivery requirements was subject to compensatory payments if used in Class I–A, in the same manner as milk from plants not eligible for full pooling. The handler could pool such milk, however, in any month when the pool unit delivery requirements were met.

Any bulk tank unit which is not a pool bulk tank unit because the handler is not eligible to operate such unit or has not delivered the required quantities of such unit's milk to a pool plant should be a partial pool bulk tank unit. Only the Class I–A milk would be included in the handler's obligation. The resulting pool payment on this Class I–A milk at the difference between the Class I–A and blend prices will tend to minimize price advantage for such milk under current conditions.

The area in which plants or units may be designated as pool plants or pool units should be extended to include the entire State of Pennsylvania. The New York-New Jersey and Philadelphia milksheds overlap in the general area within 200 miles of Philadelphia. Milk from this section of the milkshed is available to this market and was furnished to the market both before and after the geographical limitation was set forth for applications for pool plant designations. Since milk is readily available from this area, it should be included in the area where regular plants or pool units may be established.

Proposals were made which would have the effect of pooling all bulk tank milk entering a pool plant. Adoption of these proposals would make it possible to pool milk that is not associated with the fluid market and would destroy the effectiveness of the order in retaining under regulation milk for the market that is available for fluid uses on a continuing basis. As previously stated, the provisions with respect to the pooling standards for bulk milk are a necessary and integral part of the pooling provisions proposed herein. These proposals would be inconsistent with this regulatory plan and, therefore, are denied.

Regulatory treatment of milk which does not meet prescribed pooling standards. The pooling provisions necessarily limit full pooling to those plants and bulk tank units which have an established and continuing association with the market. However, as previously stated, milk may enter the market-

ing area from plants or units which do not meet such standards, making it necessary to provide appropriate means to integrate such milk into the regulatory scheme.

Any supply plant which does not meet the present requirements for either temporary or designated pool plant status (other than a plant regulated by another marketwide pool order), and which is not primarily engaged in supplying fluid markets (i.e., its percentage of milk received from diary farmers and bulk tank units classified as Class I-A and Class I-B is less than the utilization percentage for the same month of the previous year), should be identified as a "partial pool plant". Such plants would be required to make a payment into the producer-settlement fund at the difference between the Class I-A and blended prices on any milk classified in Class I-A. This is the same rate of payment into the pool a regulated handler makes on his Class I-A disposition.

To provide substantial competitive equity in minimum pricing of milk, at the initial acquisition level, among operators of pool plants (or bulk tank units) and operators of partial pool plants (or partial bulk tank units) and to protect the regulatory plan against harmful economic and regulatory consequences which otherwise would result from the introduction into the marketing area of milk from such sources not subject to full minimum pricing and pooling under the order, some payment to the producer-settlement fund on such milk disposed of as Class I-A milk in the marketing area is absolutely essential. Under the marketing order, the Secretary should protect, to the extent consistent with the act, the regulatory plan in this or any other marketing area against defeat or impairment because of such consequences. At the hearing, virtually all segments of the industry recognized the necessity for such action by way of an appropriate payment to the producer-settlement fund on such milk from other than pool plants so disposed of in the marketing area as Class I-A milk.

There can be no question that the Class I-A price should basically apply to both fully regulated and partially regulated milk used in the marketing area as Class I-A milk. To impose any different charge on the partially regulated or unregulated milk would automatically result in inequity as compared with full pool milk similarly utilized.

Although there is no room for doubt as to the need to charge the Class I-A minimum price for any milk so utilized (the minuend), the proper credit to be allowed to milk from nonpool plants is not as clear, i.e., what subtrahend should be used in such a payment formula. There is considerable evidence in the record to the effect that in many situations a payment at any lesser rate than the difference between the Class I-A minimum price and the surplus value of such milk (the Class III price) would not give complete assurance that such milk would not be disposed for fluid use in the marketing area at an unwarranted minimum price advantage over producer milk similarly utilized. Much of the milk from nonproducer sources commonly is purchased from dairy farmers on a flat price basis without regard to use classification and most of the milk so purchased is utilized for local distribution from the nonpool plant as fluid milk for other markets.

This frequently leaves excess milk at such plants which is truly surplus to the normal fluid needs of those plants. The existence of such surpluses at nonpool plants also is greatly accentuated at times of the year when because of seasonal increases in the production of milk without a corresponding increase in the demand for milk, substantial increases in the surplus at all plants in the milkshed can be expected. If it were not for the regulated market, such milk would have no higher value to the plant operator than its surplus value. In such circumstances the operator of such a nonpool plant has great incentive to "dump" his surplus milk into the marketing area at any price higher than the surplus or Class III value and thereby obtain a competitive advantage over pool handlers. Pool handlers cannot similarly convert otherwise surplus Class III milk into Class I-A utilization without accounting to the pool essentially at the full difference between these two utilizations, i.e. they account at Class I-A rather than Class III. There would then appear to be substantial justification for the same rate of charge against milk from nonpool plants obtained and used in similar circumstances.

It is concluded, however, on this record and at this time and in the light of the decision of the Supreme Court in the Lehigh Valley case and because of the administrative difficulty in this market in determining whether particular milk from a nonpool plant utilized as Class I-A actually had only a surplus value or cost at source, that the charge should be limited to the difference between the Class I-A price and the marketing order blend price, both as adjusted by the same butterfat and location adjustments applicable under the order to fully pooled and priced producer milk similarly situated delivered and used. Although the use of the blend price as the subtrahend will not assure complete removal of the minimum price advantage which may exist for some milk for the reasons just stated, it will nevertheless serve to minimize this advantage in such cases and should generally be an equitable means in conjunction with the revised pooling requirements, of providing a reasonable measure of protection to the regulatory plan.

Pool handlers are required to pay this minimum blended price to their own producers and, in addition, are required to pay to the producer-settlement fund the full difference between the Class I-A price and such blend price on all pool milk classified as Class I-A because of its fluid use in the marketing area. Nonpool milk similarly used as Class I-A milk should likewise carry a payment to the producer-settlement fund at least at the same rate as that required of pool milk. If the pool handler buys milk at a price in excess of the blend price, he receives no credit for this excess payment on accounting to the fund. A nonpool handler who buys milk at a price higher than the blend price also should receive no credit for the excess payment. Both the pool milk and the nonpool milk therefore should be credited with only the blend price in accounting to the pool. This method treats the handler of nonpool milk who buys it at a price in excess of the blend price the same as a pool handler who may, if he chooses, pay his producers more than the blend price set by the order but must still account to the producer-settlement fund as if he had paid only the blend price.

Thus, when the costs (including the opportunity cost) of Class I milk disposed of in the marketing area by nonpool handlers is not less than the uniform price established under the order, this payment will result in substantial equity between pool handlers and nonpool handlers. If the cost of such Class I milk is less than the order uniform price, an advantage will be accorded such nonpool handlers relative to fully regulated handlers.

The record also shows that, in general, the New York blend price is the basis upon which operators of wholly unregulated plants in or near the milkshed may be expected to purchase milk from dairy farmers in procurement competition with pool plants. The New York blend price thus usually serves as the basis of negotiation for the purchase of unregulated milk at such plants. Prices to dairy farmers for both pool and unregulated milk generally run in close alignment. While it is true that some premiums may at times be offered to dairy farmers by such nonpool plants, it is also true that pool plants in the same area may likewise and at times do pay premiums in excess of blend. As aforesaid, the mere payment of such premiums in excess of blend prices should not be the basis of a further credit either to the pool handler or the nonpool handler for purposes of the minimum pricing of milk which enters the marketing area and is utilized as Class I-A.

This method also provides substantial equity between producers whose milk is subject to full pricing and pooling under the order and dairy farmers who deliver their milk to nonpool plants. A producer under the order who delivers his milk to a pool plant where it is used entirely for Class I-A purposes in the marketing area is assured for that milk the same blend price as is received by all other producers in the pool. This is a fundamental concept of the marketwide pooling provisions contemplated by the act and provided in this marketing order as a mechanism for maintaining orderly marketing conditions. It certainly is not unfair or burdensome to the nonpool dairy farmer whose milk is used as Class I-A milk in the Federal marketing order area to provide opportunity for him to obtain the full blend price which a full-fledged producer who regularly delivers his milk for primary use in the marketing area can obtain under the order. The allowance of a credit to milk from nonpool plants used as Class I-A in the area at the blend price level will provide this opportunity to the nonpool

handler to pay his dairy farmer at least the blend price on the marketing area Class I–A sale. The order cannot, of course, guarantee to the nonpool dairy farmer that his nonpool handler will in fact pay this full blend price to him for the Class I–A milk delivered in the marketing area and to this extent the nonpool handler may continue to enjoy some advantage over fully regulated pool handlers. The provisions with respect to full pooling set forth herein, however, reduce or eliminate the number of handlers who can obtain such an advantage.

The record fully supports charging for milk from such nonpool plants, so disposed of in the marketing area for fluid purposes, at the full Class I–A fluid price and crediting it at the blended price under the order just as if it were producer milk even though the record also shows that in some, and perhaps many, cases this rate of payment might not be adequate because at times other source milk might be obtainable at actual values or prices lower than the blend price. It is concluded on the present record and until and unless it is demonstrated that this rate will not sufficiently protect the regulatory plan that milk received at partial pool plants or from partial bulk tank units which is utilized for fluid use in the marketing area as Class I–A milk should be charged at the Class I–A price and credited at the blend price and that the difference should be paid to the producer-settlement fund.

Special provision needs to be made for pool payments on milk distributed as Class I–A in this marketing area from certain plants which are regulated by another Federal milk order that provides for individual-handler pooling. Such pool payments, at the difference between the Class I–A and blend prices, would apply to Class I–A milk from an individual-handler pool plant which has a total Class I utilization below the market's Class I utilization for the same month of the preceding year. Unless appropriate provision is made for handling Class I–A milk disposed of from a low utilization plant under an individual-handler pool, the operator of such a plant could dispose of substantial quantities of milk as Class I–A (generally up to 25 percent of his dairy farm receipts) without becoming fully regulated, thereby improving his competitive position at little or no expense to himself.

In certain limited circumstances, milk orders with individual-handler pooling attain the ends of stabilized marketing conditions specified by the statute. Individual-handler pooling is not generally effective in achieving orderly marketing in markets where reserve supplies are concentrated in the hands of one or a few handlers, or where surpluses are relatively large. Because of their limited effectiveness, official notice is taken that only 13 marketing orders with individual-handler pooling are now in effect.

Individual-handler pooling also has limited capability of achieving marketing stability because such an order has virtually no regulatory effect upon a cooperative association in its capacity as a handler or operator of a milk plant. The statute authorizes cooperative associations to return the proceeds (whatever they are) received from the sale of milk in all markets to its own members without regard to the minimum class prices specified in the individual-handler pool order. Although a cooperative under this provision of the statute may not sell milk to regulated handlers at less than the class prices specified in the order, no particular provision is made with respect to the sale of milk to non-handlers, such as the sale of milk to consumers. Thus, if a cooperative association accumulates quantities of milk beyond those that it can sell readily at normal prices, a special incentive arises for the cooperative to find some outlet where this excess may be disposed of at any price above its manufacturing value. It is especially advantageous if the outlet for this additional milk is outside of the cooperative's major market or area of disposal.

Proprietary handlers also face different incentives when they operate under individual-handler pooling than when they operate under marketwide pooling. Under individual-handler pooling, procurement advantages accrue to the individual handler who maintains a relatively high blended return to his own producers. Consequently, a proprietary handler who accumulates more than an average proportion of surplus milk is under competitive pressure either to reduce his purchases of milk from producers (usually by cutting off purchasers from one or more producers) or by attempting to increase his Class I sales. One advantageous way to increase Class I sales is by reducing prices in some market outside of the handler's normal or major area of distribution.

It is necessary to recognize the special advantages or incentives that apply under individual-handler pooling when a low utilization handler under such pooling disposes of Class I milk in this market with marketwide pooling. These incentives and advantages also apply with regard to handlers subject to individual-handler pooling under State regulation.

Special provisions, therefore, are adopted in this order to deal with receipts of Class I milk from handlers subject to other Federal orders with individual-handler pooling or subject to State regulation. This special provision involves the collection of pool payments at the difference between the Class I–A price and the blend price at the location of the plant from whence the Class I–A milk was delivered. This is the same rate of payment as applies to producer milk which is utilized as Class I–A and it thus treats a shipment of milk from an individual-handler pool market in a way similar to that provided for producer milk under this order.

It is not necessary to collect such a payment on milk from another Federal order with marketwide pooling. For a payment at the difference between the Class I price and the blend price under the other Federal order, which would already have been made into the other marketwide pool, removes the incentive to reduce prices in order to enhance utilization of milk as Class I. Regulation of a cooperative or proprietary handler under one marketwide pool order, therefore, provides all of the safeguards that are necessary to insure orderly marketing conditions in the sale of such milk no matter where it is finally disposed of.

It was stated that imposition of a charge under this order on milk on which classified prices are established by a State regulatory agency would constitute a barrier to entry into the regulated market. The pricing provisions contained herein are applied only to the milk of plants associated with the regulated market. Therefore, if a state agency attempts to impose additional charges on milk disposed of in the New York-New Jersey marketing area, it must be concluded that any resulting barrier is caused by the action of the State rather than by the Federal order. If a handler finds himself in such a position, relief should be sought through the State agency.

It is not likely that any appreciable quantity of milk from nonpool supply plants in the New York-New Jersey milk supply area (a radius of about 400 miles from Metropolitan New York) would be assigned to Class I use at pool plants under the pooling requirements and the accounting system herein proposed. However, if the plan proposed herein does generate incentives for the development in the region of nonpool supply plants with milk for sale in Class I–A, the regulation of such nonpool milk should be reappraised.

Under the pooling plan proposed herein there is no apparent advantage to be gained by withdrawing a supply plant from pool status other than for the purpose of establishing a bona fide supply for another fluid market. Because of the advantages of sharing in pool funds, practically all milk in the Northeast which is approved for fluid consumption and is converted into manufactured products is now fully pooled either under this order or under one of the several other nearby marketwide pool Federal orders. The limited number of wholly unregulated manufacturing plants remaining in the production area has not been a significant source of supply for the market in the past, and it is unlikely that such plants will supply the New York-New Jersey Class I–A market in the future. Such plants, however, may wish to use pool manufacturing facilities for conversion of milk into certain manufactured dairy products.

There is an incentive for plants with relatively low Class I utilization to be included under a marketwide pool in order to share in the marketwide blended price. The order provides means by which any plant may establish association with the market and achieve pool status. Any plant shipping milk to the market which has not become a pool plant obviously has not met the alternative requirements provided of delivering milk or pledging its entire supply to the market for fluid use when needed. It has not, in other words, undertaken to supply its share of milk for the Class I–A market.

If a manufacturing-type plant were permitted to pool its entire dairy farm

supply on the basis of minor or sporadic shipments to the marketing area, the handler would be accorded a distinct advantage over other shipping handlers who must meet regular and continuous performance standards. Indeed, if such minor or sporadic shipments were considered sufficient for full pool status there would be no incentive for regular pool handlers to meet their continuing obligations under the order since they, too, could qualify on the basis of such minor shipments.

Such a manufacturing-type plant clearly should not share in the market pool funds. To pool such milk could simply dilute returns to the producers whose milk constitutes the regular supply for the market. On the other hand, failure to provide some regulation of the Class I-A milk entering the marketing area from a manufacturing-type plant would grant an unwarranted price advantage to such milk over fully regulated milk.

Accordingly, the order should provide that receipts from such unregulated plants be assigned first to classes other than Class I-A to the extent available, and then, if any milk is assigned to Class I-A, the shipping plant be designated a "partial pool plant" and the handler be charged the Class I-A price and credited with the blended price on the portion of any shipment which is classified as Class I-A. This rate of payment will tend to minimize the price advantage attached to such milk relative to producer milk.

As heretofore stated, the application of this rate to any substantial quantity of milk is not anticipated. If the rate does attract milk from manufacturing-type plants, then the partial regulation of such milk should be re-examined.

A distinction may be made in the treatment of certain kinds of shipments from plants within 400 miles of the marketing area and plants more distant than 400 miles. As has been set forth, there are myriad opportunities for underpriced milk to enter the marketing area under conditions which would be destructive to effective regulation. Certain measures which it is believed will be effective in dealing with this milk when it arises within 400 miles have been described. Somewhat different methods should be applied to milk which comes from distances greater than 400 miles. To be sure, underpriced milk is also available from these more distant plants. However, the costs of transportation are such that when added to the procurement cost there is reason to believe that such milk will not enter the marketing area at prices or under conditions which would be destructive of effective regulation under a more liberal provision.

This more liberal provision would apply to milk shipped to a marketing area fluid milk processing and packaging plant[4] from a plant in the 401 miles and over freight zone which plant does not meet the requirements necessary for full pooling. Such milk should be classified along with all other milk at the receiving plant and should be added to the receiving handler's obligation at the appropriate class prices and credited to such handler from the pool at the blend price. If the quantity shipped is sufficient for the distant plant to meet the pool plant provisions then, of course, the plant would be fully pooled and regulated.

The milk from a distant partial pool plant which is subject to such market equalization should be limited to those shipments received at a regulated plant primarily engaged in processing and packaging milk for the marketing area fluid milk trade. In effect, the shipment of milk from the partial pool plant would be allocated pro rata to all classes of milk at the receiving regulated plant. The entire shipment would be priced and equalized. That is to say, it would be included in the handler's net pool obligation in the same manner as producer milk received at the pool plant for the same location as the distant nonpool plant. This treatment is to be distinguished from that applied to milk from other partial pool plants. Here, if any milk is assigned to Class III a pool credit is given, while on milk from other partial pool plants no credit is given, on the milk assigned to Class III.

Milk shipped from any such distant plant to any other plant, however, should be assigned first to classes other than Class I-A. Any such milk assigned in sequence to Class I-A would be subject to a payment into the producer-settlement fund at the Class I-blend price difference.

Plants to which such shipments might be made could be either a fluid milk processing plant primarily supplying another fluid market but which has some Class I-A disposition or a pool manufacturing plant in the New York-New Jersey milkshed.

Shipments of milk from distant plants may be made to pool manufacturing plants in the outer reaches of the milkshed in order to dispose of surpluses of distant markets. Shipments for this purpose should be possible without becoming involved with the pricing and pooling provisions of the order. This will tend to assure the maximum utilization of such manufacturing facilities. Certainly there would be no occasion, except to exploit some price advantage, to ship milk from a distant plant to a pool manufacturing plant, and then transship it to the marketing area for Class I-A use since the nearby manufacturing plant would have its own dairy farm supply available for such purposes. In the unlikely event that some of this distant milk were assigned to Class I-A, however, the previously described payment at the Class I-blend price difference on such milk would tend to minimize any price advantage for this source of supply.

Since, generally, only a small part of the milk shipped from a distant plant to a New York-New Jersey pool plant would be priced under this order, the return or actual price paid to dairy farmers at the distant plant would not be established by the order. Likewise the order would not specify a minimum price to be paid by the receiving handler to the shipping handler for the shipment. It is appropriate, therefore, that the receiving handler should be held responsible for paying the obligation to the producer-settlement fund, for receiving any credits from the fund and for the administrative assessment on the priced and equalized milk of the partial pool plant.

Another source of unpriced milk for the regulated market is that milk produced by a producer-handler which is surplus to his exempt fluid milk operation. To facilitate the disposition at a pool plant of this surplus milk of a producer-handler operation, such milk should continue to be assigned first to classes other than Class I-A with a payment at the difference between the Class I-A and Class III price applicable on any of such milk which is assigned to Class I-A. This payment requirement, being restored to the order, coincidentally was included as part of the provisions which required compensatory payments on Class I-A milk originating at other types of nonpool plants and for mechanical reasons has been under suspension since July 1, 1962.

Under the present New York-New Jersey order, the producer-handler is essentially exempt from regulation and therefore enjoys full return from his sale of milk on routes in competition with regulated handlers. The conditions for obtaining exempt status as a producer-handler were considered in detail in the decisions of June 10, 1957 and August 5, 1958 of which official notice has been taken. One of the conditions specified in these decisions was that a producer-handler should assume responsibility for his surplus and should not burden the pool with milk not needed for his exempt operation. This has been accomplished under the order, while at the same time providing means for producer-handlers to dispose of surplus milk to regulated handlers with manufacturing facilities, through the assignment and compensatory payment provisions.

Since the exemption of a producer-handler's Class I sales from market equalization is contingent upon the condition that he assume responsibility for his surplus, he should not expect to receive more than a surplus price for such surplus milk when disposed of to a pool plant. Nor should a regulated handler be permitted to obtain such surplus for use in Class I when he can not purchase producer milk on similar terms. Also, since the producer-handler has the compensatory advantage of enjoying the full benefit of his own Class I sales without pooling them with sales of other producers, he should not receive also Class I benefit from the pool, at the expense of other producers, for his milk which he is unable to sell as Class I to his own customers.

The difference between the fluid milk price and the surplus milk price as a rate of compensatory payment on receipts by regulated handlers of milk from producer-handlers was ratified by Con-

[4] A "marketing area fluid milk processing and packaging plant" as referred to herein is a "fluid milk processing and packaging plant" from which at least 50 percent of gross receipts of milk leave the plant in the form of packaged Class I-A milk (including milk in dispenser inserts).

gress at the time provisions of the Agricultural Adjustment Act of 1933, as amended in 1935, authorizing the issuance of milk orders, were reenacted by the passage of the Agricultural Marketing Agreement Act of 1937. During the period between August 24, 1935 and June 3, 1937, the effective date of the latter Act, six Federal milk orders were issued under the Agricultural Adjustment Act. Two of such milk orders (Greater Kansas City, Missouri and Fall River, Massachusetts), placed in effect during this period, contained provisions requiring handlers who used bulk milk received from producer-handlers in other than the lowest-priced classification to pay the difference between the class use price and the lowest class (surplus) price for such milk as part of the handler's total obligation for milk. Such payment was distributed, together with the classified value of producer milk of the handler, through the marketwide pool.[5]

The pool payments on Class I–A milk from nonproducer sources also should apply to situations where the handler who ultimately uses the milk in Class I–A purchases it from another handler, rather than directly from dairy farmers. In such cases no allowance should be made to recognize handling margins or profits between the two handlers or the price actually paid by the one handler to the other. Fully priced and pooled milk also is commonly sold by the original pool handler to another handler for fluid use in Class I–A. In such circumstances, the second handler of the pool milk usually pays a negotiated "handling charge" above the Class I–A minimum price to cover the seller's costs of prior handling of the milk, plus profit, if any. However, for order purposes the act and the order do not permit any credit against the minimum Class I–A price for these interhandler arrangements or prices on producer milk. This is because the minimum class prices for producer milk attach and apply as of the first step in the total handling process; i.e., when the initial handler receives the milk in raw form from producers. The order does not deal with or fix interhandler charges or prices on priced and pooled milk, but it does require that all such milk utilized in Class I–A be accounted for, at source, at the full Class I–A minimum price without any allowance for subsequent handling costs or charges. Interhandler margins, profits and prices thus are irrelevant under the order as to Class I–A pool milk. They are likewise irrelevant in fixing proper payments on milk which is not fully pooled but which is used in the marketing area as Class I–A milk.

II. The assignment provisions of milk at regulated plants should be amended to provide for:

1. Pro rata assignment to all classes of milk received at a processing plant for the marketing area fluid milk trade from a plant in the 401 miles and over freight zone or from other marketwide pool Federal orders (except Connecticut) prior to other assignments.

2. Classification of pool milk shipped to a plant under another order in the equivalent class to which it is assigned under such other order.

3. Assignment to Class I–B and then to Class I–A of packaged fluid milk products classified and priced as Class I under another marketwide pool order.

4. Assignment of pool and nonpool bulk tank milk in the same manner as pool and nonpool milk from plants.

Before any other assignment, milk received at a plant primarily processing milk for the marketing area fluid milk trade from partial pool plants outside the 400-mile zone should be assigned pro rata over all classes of milk utilized or disposed of by such processing plant. This change is necessary in order to conform with and effectuate the revised pooling provisions with respect to milk received from such plants.

If the milk is not priced under another order with a marketwide pool and if the distant supply plant does not become a pool plant under this order, the plant will be a partial pool plant under this order and the entire milk shipment received at the regulated processing plant will be priced along with other pool milk at the appropriate class prices and equalization with the marketwide pool will be required.

If the shipment is from a distant plant to a plant other than a plant processing milk primarily for the marketing area fluid milk market, the assignment at the receiving plant will be the same as for other nonpool milk; i.e., it will be assigned pro rata to classes other than Class I–A and Class II, as follows: If the plant is a plant manufacturing Class III products only, the milk will be assigned to Class III and not pooled, regardless of the pool status of farmers delivering directly to such plant. On the other hand, if the plant is one which is primarily processing milk for the fluid milk trade outside the marketing area, most or all such milk may be assigned to Class I–B, but milk so assigned to Class I–B will not be pooled. In this instance the only milk in such shipment on which a pool obligation could arise, is that for which no assignment is possible other than to Class I–A. In such case, the supply plant will become a partial pool plant and only that quantity allocated to Class I–A milk will be priced by the order.

Packaged milk which is classified and priced as Class I under another marketwide pool Federal order should have priority in assignment first to Class I–B and then I–A when received at a distributing pool plant under this order. However, if the milk is from an individual-handler pool order it should be assigned first to Class I–B and next to classes other than I–A, since an assignment to Class I–A in this instance would necessitate the pooling under the order of the dairy farmer receipts at the supplying plant. If a pool plant receives packaged or bulk milk which is priced under another Federal order in the same month that it is disposing of Class I–B milk in the marketing area of such other order, the receipts of such other order milk will be assigned on a priority basis to the Class I–B disposed of in the other market after the assignment specified above for packaged milk.

The New York-New Jersey order should provide that bulk milk received at a plant processing milk primarily for the marketing area fluid trade from a plant fully regulated under another marketwide pool order (except Connecticut) be assigned pro rata to the receiving plant's utilization of milk in all classes. This provides a classification of milk from sources regulated by another marketwide pool order similar to that afforded milk received at the plant from local producers and should facilitate the movement of milk among Federal orders. The special situation with respect to Connecticut is discussed later. Bulk receipts from an individual-handler pool should continue to be assigned pro rata to Class I–B and III, since, as in the above instance, an assignment to Class I–A would necessitate the pooling of the plant under this order.

If pool milk is shipped to a plant under another order, that portion not classified as Class I–A or Class II will be assigned to Class I–B to the extent that the other order assigns it to Class I, and will be assigned to Class III to the extent of Class III and the other order assigns such milk to uses other than Class I. The order as now written requires milk shipped to such plants to be prorated over all utilizations in the receiving plant. Since the other order may assign such milk to surplus uses only, the combination of order provisions may in some instances impede the shipment of such milk, and therefore this order should be changed to accommodate such movements to the fullest extent possible.

The assignment provisions contained herein are designed so that the New York-New Jersey order and other nearby orders will be integrated with respect to assignment; i.e., there would be no classification of milk as Class I under this order and assignment of such milk to a surplus class under another order. Such integration of assignment provisions should facilitate the movement of milk among the several regulated markets. The assignment plan will permit similar dovetailing with other orders as complementary amendments to such orders are possible.

Under the present order, nonpool bulk tank milk is first assigned to Class III whereas nonpool plant milk is prorated to Class I–B and Class III. A handler who

[5] Such payment was provided for in these orders in accordance with the provisions of section 8c of the Agricultural Adjustment Act of 1933, as amended on August 24, 1935, which was renumbered as section 608c upon reenactment on June 3, 1937, by the Agricultural Marketing Agreement Act of 1937. 7 U.S.C. section 672, which contains the codified language of section 4 of the Agricultural Marketing Agreement Act of 1937, as amended, states in paragraph (a) "Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with any such agreement, license or order which has been executed, issued, approved, or done under sections 601–608, 608a, 608b, 608c, 608d–612, 613, 614–619, 620, 623, 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed."

uses nonpool milk will find it advantageous, therefore, to receive such milk from plants rather than from bulk tank units in order to minimize its assignment to Class III. This, at times, results in bulk tank milk being handled through an additional plant in order to have it treated as a plant receipt at the plant where the milk is actually used. In order to facilitate the efficient handling of milk, pool and nonpool bulk tank milk should be assigned in the same manner as pool and nonpool plant milk.

A proposal was made to give preferential assignment of nonpool milk to Class I-B, or, in the alternative, to lower the price of Class I-B milk. Either of these actions would result in the pool carrying all the surplus associated with the Class I-B sales while not sharing in such sales. These proposals, therefore, should be denied.

III. The present boundary of the marketing area should be retained and the proposal to delete Warren, Sussex, and Hunterdon Counties therefore is denied.

A cooperative association and a proprietary handler operating pasteurizing and bottling plants in the Allentown-Easton-Bethlehem, Pennsylvania, area proposed that the counties of Warren, Sussex, and Hunterdon, New Jersey, be removed from the New York-New Jersey marketing area. The distribution by proponents within the marketing area is confined to the three counties. The adoption of this proposal, therefore, would eliminate from any regulation whatsoever under the New York-New Jersey order the milk distributed (packaged and sold on routes) by proponents within the defined marketing area.

The feasibility of deleting the three counties in the present circumstances must be determined on the basis of whether or not (1) there has been a significant change in marketing conditions from those which supported their inclusion in the marketing area in the decision of the Secretary on June 10, 1957, and (2) the problems of regulating the New York-New Jersey market to maintain competitive parity in pricing among handlers distributing fluid milk in the marketing area can be minimized by the proposed action.

The Secretary found as follows in his decision of June 10, 1957:

"From the point of intersection of the State lines of New York, New Jersey, and Pennsylvania, the marketing area boundary should be the State line between the States of Pennsylvania and New Jersey south to the point where the boundary line between Hunterdon and Mercer Counties in New Jersey intersects with the Pennsylvania-New Jersey State line. Sussex, Warren, and Hunterdon Counties should be included in the marketing area as there is considerable competition for sales in the three counties between handlers and subdealers who have sales throughout the area in New Jersey proposed for regulation. Pasteurizing and bottling plants located in the three counties also have routes extending into other northern New Jersey counties. Omitting Sussex, Warren, and Hunterdon Counties from the marketing area would result in placing the boundary at a point at which greater overlapping of routes would occur between regulated and unregulated handlers. There is some overlapping of routes of handlers located in New Jersey with those of handlers located in the State of Pennsylvania. However, the Pennsylvania-New Jersey State line appears to be the point of least competition between handlers who are expected to be regulated and those who are expected to be unregulated."

In the three western counties of New Jersey (Warren, Sussex, and Hunterdon) there are 11 pasteurizing plants. Their average pricing zone, under the order zoning schedule, is 37–46 miles from the basing point for pricing under the order. In the three adjoining counties, Passaic, Morris, and Somerset, there are 21 pasteurizing plants and their average price zone is 11–20 miles. For the other counties of north Jersey, which are primarily along the eastern boundary of the State, the plants have an average price zone of 10–19 miles.

Pasteurizing plants in any of the above areas can readily serve all such New Jersey counties, and many of them do. Sussex, Warren, and Hunterdon Counties have a relatively small population and the major part of the fluid milk distribution of the pasteurizing plants located in such counties is made in more heavily populated counties of the State. On the other hand, several plants located in the more heavily populated counties have distribution in the three western counties. Twenty-two Order No. 2 handlers in northern New Jersey distribute milk in Sussex, Warren, and Hunterdon Counties. Their distribution represents more than 60 percent of the total fluid milk sold in such counties. Nineteen of the handlers with sales in these counties distribute more than 1,000,000 quarts of fluid milk per month to 68 subdealers located within the three county area and over 500,000 quarts of fluid milk per month to 22 subdealers located on the eastern fringes of the three counties.

Eight of the handlers with fluid sales to subdealers located in the three-county area also operate bottling plants located within these counties. Their distribution from these plants within the three counties, however, does not exceed 20 percent of their total sales. Seventy-five percent of the sales of these firms are distributed in the remaining counties of northern New Jersey within the Order No. 2 marketing area. Only 3 of the 22 handlers distributing in the 3 counties restrict their sales to such counties. The latter handlers distribute milk on their own routes and are relatively small in volume of sales, being not over 2,400 quarts per day.

Fluid milk distribution in the three western counties of New Jersey from Pennsylvania bottling plants is made by the proponent cooperative association and additional, but relatively small quantities by two proprietary handlers. The proponent cooperative association's fluid sales in the three counties averages less than 4 percent of its total Class I sales. Its sales in Warren County constitute, however, about 25 percent of the total fluid milk distributed in such county. The major portion of all such distribution is limited to the community of Phillipsburg, New Jersey. The record does not disclose any distribution from such western counties into Pennsylvania or routes originating at points in Pennsylvania other than the Allentown-Easton-Bethlehem area and crossing into the three New Jersey counties at other locations along the Delaware River.

The facts on which the boundary of the marketing area in western New Jersey was set in 1957 were highly similar to those existing today. The present boundary (Pennsylvania-New Jersey State line) represents the line over which there is the least overlapping of routes of distribution from pasteurizing plants inside the marketing area to customers outside the marketing area with routes of distribution from pasteurizing plants located outside the area to outlets within the marketing area than any other which could be drawn with respect to the inclusion or exclusion of these three counties. By establishing the boundary at the line of least overlapping of routes of fully regulated handlers and other distributors, the order will provide minimum impact on, or interference with, the normal or customary distribution patterns of pasteurizing and bottling plants whether they are, or are not, subject to the pricing and pooling provisions of the order.

Proponents for exclusion of the three counties contend that the amount of wholly unregulated milk sold in the three counties is very slight when compared with milk under regulation which is sold in these counties and, therefore, that continued regulation of the counties is not necessary or warranted. The deletion of the three western counties of Warren, Sussex, and Hunterdon might well relieve the proponent cooperative and proprietary handler from any obligation under the New York-New Jersey order since these counties are their main areas of distribution in New Jersey. At the same time, however, such action would not lessen, but rather would intensify, the problem of maintaining orderly marketing for fully regulated handlers who then would be placed in the position of competing in their normal and customary distribution areas with milk purchased entirely free from the regulatory program. Even if it is accepted that in absolute terms the amount of milk involved in competition between milk originating in and distributed on routes from these counties to other counties of the marketing area and milk distributed into such counties is not sizable when related to the entire marketing area or even to the total for 11 northern New Jersey counties, the quantities as heretofore described may not be regarded as insignificant and a change in the marketing area boundary as proposed could only increase, not reduce, the competitive problems of handlers remaining regulated. It is essential to regulated handlers that in their normal distribution areas for fluid milk, they have the opportunity to enter into competition for sales without disadvan-

tage caused by the purchase of unregulated milk at a price lower than the Class I–A price established by the order. In view of the above, the present boundary of the marketing area should be retained and the proposal to delete Warren, Sussex, and Hunterdon Counties is therefore denied.

IV. The Connecticut and New York-New Jersey orders should continue the same general method of regulating Connecticut order milk as is now provided, except that the New York-New Jersey order should provide for a price differential applicable specifically to Connecticut order milk disposed of to New York-New Jersey regulated plants for Class I–A or Class II use.

A revised method of integrating the provisions of the New York-New Jersey and Connecticut orders as to the classification, pricing and distribution of returns for milk transferred or diverted from Connecticut pool plants to plants regulated by the New York-New Jersey order for Class I–A use was proposed.

At times Connecticut pool milk is transferred or diverted to New York-New Jersey regulated plants and is assigned to Class I–A under the New York-New Jersey order. Such milk is classified and priced, however, as Class II (surplus) milk under the Connecticut order. The New York-New Jersey order collects payment on such milk computed at the difference between the minimum Class I–A price (which would have applied had an equivalent quantity of New York-New Jersey pool milk been used to cover the same sale) and the minimum Class II price established by the Connecticut order (which is virtually identical to the Class III, or surplus classification, price under the New York-New Jersey order). In this way coordination of class use pricing on milk passing from the one regulated market to the other has been achieved in a manner which prices such milk in its ultimate use in the New York-New Jersey market on a basis similar to New York-New Jersey pool milk.

The proposed change in method of pricing and distribution of returns involves only the mechanics or procedures involved. It was proposed that the Connecticut order be modified to price such milk assigned to Class I–A in the New York-New Jersey plant at the New York-New Jersey Class I–A price, and to provide for the transfer of monies representing the difference between such price and the Connecticut Class II price by the market administrator of the Connecticut order to the market administrator of the New York-New Jersey order for inclusion in the New York-New Jersey order producer-settlement fund.

The milk so transferred or diverted to the New York-New Jersey market for disposition in Class I–A was admitted in the testimony by a Connecticut producer representative to be surplus to Connecticut market needs. At the same time, however, the substitution of such quantities of nearby milk moved from Connecticut producers to the New York-New Jersey market for more distant milk from New York-New Jersey pool supply plants which otherwise would be required to cover the Class I–A sale minimizes transportation charges against the New York-New Jersey pool and thus increases the amount of pool returns for New York-New Jersey market producers over the level which would have resulted had pool milk been used to cover the same sale.

The movement of milk priced in this manner accomplishes the efficient disposition of surplus quantities for one market and effects a transportation saving for the other market. It effects some saving in handling for both markets and thus coordinates two regulatory programs so as to carry out their common purpose of orderly marketing of milk for the respective groups of producers affected by the regulations.

The situation found to exist between those two markets in respect to bulk milk movements is not inter-market competition between producers for outlets in the commonly accepted sense. In the latter circumstance it would be provided, ordinarily, that the milk involved would be priced at the class use price in the selling market and the fluid sale would accrue to the producers of that market, as in the case of route sales made by a Connecticut handler into the New York-New Jersey marketing area. The particular pricing arrangement here involved in bulk milk was designed with the concurrence of producer groups represented in both markets as an appropriate basis for coordinating the minimum pricing provisions affecting both markets so as to accommodate the producers and handlers of both through the efficient handling of bulk raw milk, but without additional cost to handlers in either market for milk for fluid use. One of the producer groups moving milk between the two markets has substantial membership among producers regularly serving each of the markets and may receive direct benefit in the handling of milk for producers in both markets. Both buying and selling markets gain from the arrangement.

Bulk tanks on farm, improved transportation, better refrigeration, and better quality of milk all facilitates increased movement of milk between fluid markets. This requires well integrated classification and pricing provisions among the Federal orders. The pricing provisions in question here on movements of milk from Connecticut to New York are consistent with efficiency in milk handling and cause no special price burden on producers or handlers in either market. The record shows no present need which requires the substitution of the proposed procedure for the present inter-market pricing provisions.

Plants under Federal orders other than Connecticut with marketwide pools which ship Class I–A milk to the market in quantities less than required for pooling under this order should pool the milk under the other order with no obligation to the producer-settlement fund under the New York-New Jersey order.

The identity of the plants whose milk will be included in the marketwide pool is dependent upon qualifications specified in the order. As previously shown herein, these qualifications are necessary to provide the market with an adequate supply of pure and wholesome milk.

In any instance where application of such pooling standards to a particular plant conflicts with marketwide pooling requirements under another order, the conflict must be resolved by pooling under only one order. Pooling the plant in the market where it disposes of the most milk generally will resolve the conflict and will provide for sharing the pool funds in the area where most of the Class I revenue is obtained. However, the provisions for establishing pool plant status by designation provide, in the New York-New Jersey market, a basis for pooling plants without regard to actual shipments of Class I–A milk. It is impractical, therefore, in this market to determine the extent of the association of any designated pool plant with a particular regulated market on the extent of actual milk shipments to the respective markets. Since the provisions for designation as a pool plant require the plant operator to make the plant's milk available to the New York-New Jersey market in periods of short supply, any designated pool plant should continue to be a New York-New Jersey pool plant irrespective of its shipments to another market with a marketwide pool unless nonpool status is specifically requested by the plant operator, or the plant's pool status is cancelled, in the manner provided by the order. In either of the latter events, the subsequent status of the plant in another regulated market would depend upon the pooling requirements of such market.

In the case of any plant which qualifies as a pool plant and also as a regulated plant under an order where individual-handler pooling applies, conflict of pooling requirements is absent, because the plant is not required to share its utilization with other plants in the individual-handler pool market. Further, unless such plant is included in the marketwide pool, the applicable regulation would fail to achieve its purpose of providing the stabilized marketing conditions which depend upon the marketwide sharing of the returns for the milk.

V. *Miscellaneous and conforming changes.* A. To implement the general plan for fully pooling and partially pooling milk received from dairy farmers at plants and in bulk tank units, a change in the definition of producer is necessary. The method used is to specify under a new definition, "pool milk", that milk subject to pricing and equalization under the order, regardless of whether all of the milk or only a part of the milk received from dairy farmers by a plant or unit is to be so priced and equalized.

Where only part of the milk from dairy farmers is pool milk each farm is considered to have delivered a pro rata share of the pool milk. Prorating to the individual farms the total pool milk of dairy farmers delivering to a plant or unit is necessary for determining the handler's credit for the nearby farm differential if some of the farms are located so as to be eligible for this differential.

A producer is then defined as any dairy farmer delivering to a pool plant or

whose milk is included in a pool bulk tank unit. The term producer should also include any dairy farmer who delivers more than half of his milk as pool milk to a plant or a bulk tank unit which was a "designated" pool plant or pool bulk tank unit but which has had its pool designation cancelled for failing to supply the market, when called on to do so.

A dairy farmer delivering to a plant or a bulk tank unit which is partially pooled because it has not met the established shipping percentages would necessarily have a relatively small proportion of his total deliveries included as pool milk under the order, since such a plant or unit generally would be fully pooled in any month in which 25 percent of its milk is classified as Class I-A. In this instance the average price to such a dairy farmer for his entire deliveries is little affected by establishing a uniform price for the pool milk. Accordingly, it is not necessary to define such a dairy farmer as a producer under this order.

However, if a regular pool plant or pool unit has its designation cancelled for failure to ship milk when required to do so, such plant or unit may not qualify for full pool status on any basis until a specified later period, regardless of the proportion of its milk included as pool milk under the order. Therefore, a dairy farmer delivering to such a partially pooled plant or unit could have a relatively large proportion of his milk included as pool milk under the order. As the percentage of pool milk increases, the impact of the order on the individual dairy farmer's return increases. Accordingly, a dairy farmer delivering to a plant or bulk tank unit which was pooled by designation but which has such designation cancelled for failing to ship milk is considered a producer in any month in which at least half of his milk is pool milk.

Three problems affecting eligibility of the handler to establish and maintain pool bulk tank units (other than those considered previously in this decision) were considered at the hearing separately from the more comprehensive provisions for pooling bulk tank milk. The first was one in which a plant is operated by one corporation and an affiliate, or subsidiary, corporation operates the bulk tank unit and purchases the milk from the farmer. This problem arose in part because bulk tank delivery has made it possible to consolidate plant operations and to close "feeder" plants. If the feeder plant is operated by an affiliate, this affiliate at times continues to purchase the milk from the farmers who delivered to the plant prior to closing. It was proposed that the provisions with respect to handlers eligible to establish and maintain pool bulk tank units be expanded so that a subsidiary or parent organization of a pool plant operator would be eligible to establish pool bulk tank units and thereby be able to purchase milk from producers previously delivering to such subsidiary's feeder plant. No objection was raised to this proposal and it should be adopted.

The second problem concerns the eligibility of a cooperative not operating a plant to establish a pool bulk tank unit without the necessity of delivering specified quantities of milk to a pool plant. A proposal was made that a cooperative qualified directly or indirectly for cooperative payments, to establish pool tank units, should not be required to deliver milk to a pool plant for the twelve-month period because by its qualification for such payments, it is officially recognized as associated with the market.

At present, specified percentages of such milk must be delivered for 12 consecutive months before the cooperative is in the same position as a pool plant operator with respect to establishing and operating such units. Thus, the cooperative must demonstrate that it is, in fact, performing the specified service for the market. It was argued in a brief that such a provision would make it too easy for a cooperative to establish a connection with the market.

In view of conditions for cooperative payments, qualification for such payments for a period of 12 months should be recognized as providing adequate association with the market, and therefore as sufficient basis upon which the bulk tank units of the cooperative may be granted designated status.

The third problem involves the question of the right of a cooperative that reports to the market administrator for milk of certain of its members delivered in bulk tank units operated by another handler to add producers to a pool bulk tank unit operated by such cooperative if the operating handler had made one of the farms of such cooperative's members non-pool. It is concluded that where the farm of a cooperative member delivers to a bulk tank unit reported, but not operated, by a cooperative, both the cooperative and the operating handler must concur in any change in status of such farm. If they concur, whatever effects flow from such change in status would apply equally to the handler and to the cooperative. Without such concurrence, no change in status should take effect.

B. Skim milk used in products requiring the payment of a fluid skim differential should be considered the same as Class I-A milk in computing percentages establishing pool plant status and should be subject to pricing if derived from milk received at plants subject to partial but not full pooling—i.e., the fluid skim differential should be assessed on all skim milk used in products specified in the provision for fluid skim differential unless such skim milk is classified and priced under another marketwide pool order.

In the New York-New Jersey market, fluid skim milk disposed of in the marketing area is subject to a fluid skim differential rather than being included in a defined class. In other Federal markets, such skim milk is classified as Class I. Failure to recognize fluid skim milk as equivalent to Class I-A milk for purposes of determining pool status of a plant, and as part of the milk subject to pricing, would give nonpool milk an unjustifiable advantage over pool milk for this use. Therefore, the pounds of skim milk subject to the fluid skim differential should be added to pounds of Class I-A milk in determining pool plant status. Also, such skim milk should be subject to the same charge as other pooled fluid skim milk unless such skim milk is classified and priced under another marketwide pool order.

C. Reference was made at the hearing by a representative of the State of Wisconsin to the possible adverse effect on milk shipments of the limitation to a specific geographic area of transportation, or freight, differentials allowed under the order to move milk from supply locations to plants distributing fluid milk in the marketing area. It was contended that the allowance of transportation differentials only at such locations as are within a specified distance from market tends to discourage the longer-distance shipment of milk which otherwise might be available for sale in the market.

The New York-New Jersey order provides freight allowances for the shipment of milk for various uses by 10-mile zones for distances up to 400 miles from market. Milk at all plants located beyond 400 miles is priced as if the plant were located in the 401-410 mile zone. The same schedule of differentials is allowed, by zones, for Class I-A, I-B, skim milk subject to the fluid skim differential and on the uniform price. A separate schedule applies to Classes II and III. For example, the freight differential for Class I-A milk for all locations beyond 400 miles is —$0.24 per hundredweight as compared with the zero differential at the 201-210 mile zone (base zone for class and uniform prices under the order). The freight differential on Class II and Class III milk is —$0.08 per hundredweight for all locations beyond 400 miles as compared with the 201-210 mile base zone. The total allowance for moving milk from plants at points beyond 400 miles to the 1-10 mile zone for Class I-A use is 48 cents per hundredweight.

Whether the present extension of transportation allowances only to a distance of 400 miles from the marketing area has, or would have, significance in restricting shipments from potential suppliers of milk to the marketing area is problematical. A plant operator at a greater distance conceivably might refrain from shipping sufficient quantities of milk to meet full pooling requirements since his obligations to farmers at the minimum uniform price for the 400 mile zone plus his obligation to the producer-settlement fund, plus transportation cost to the marketing area could be high in relation to the price of Class I-A milk at the marketing area. For this reason, extension of the schedule of differentials to all zone locations on Class I-A, Class I-B, skim milk subject to the fluid skim differential and the uniform price (provided the resulting price shall not be less than the manufacturing milk, or Class III, price level) regardless of distance from the market is desirable for all plants qualifying as pool plants. An appropriate amendment to this end is therefore adopted.

Extension of the schedule of allowances applicable to Classes II and III is

not necessary or appropriate since the long-distance shipment of milk solely for manufacturing purposes could not be accomplished without pricing such milk at a level well below its minimum value for manufacturing use at the point of origin. This not only would encourage uneconomic movements of milk but also would tend to depress unduly the blend price to pool producers against whose price the allowance for transportation would be assessed.

For administrative convenience, should a plant beyond the 400 mile zone meet the full pooling requirments, bulk tank farms whose milk is delivered to such plants should be considered to be in the same zone as the plant.

If a plant beyond 400 miles is a partial pool plant, however, extension of the table of location differentials, as proposed at the hearing, would not facilitate the movement of milk from such plant to the marketing area.

In the case of partially pooled milk the obligation to the producer-settlement fund on Class I–A and Class I–B milk is unchanged by location irrespective of whether the table is extended or not since the transportation allowance for such classes and on the uniform price are at the same rate at each zone location. However, when partial pool milk is classified as Class II or Class III, the pool credit to the shipping handler on milk in such classes would be reduced if the differential on the uniform price were extended since no extension of the differentials on Classes II and III may be made on this record. The result of extending the transportation allowances on Class I and uniform prices with respect to partial pool milk, therefore, either would make no difference in the equalization payment when no milk is assigned to the lower classes or increase it when some milk is assigned to such classes. Since, in the case of the distant partial pool plant, failure to extend the table cannot act to impede the movement of milk, there is no reason at this time to extend the location differentials as they apply to such milk.

D. For the period of July 1, 1962 through the effective date of the amendment resulting from this hearing reports of plants not pool plants by choice of the operator in June 1962 should not be used in computing the factor which adjusts the nearby farm differentials.

The suspension order of July 1, 1962 resulted in a substantial volume of milk in the nearby differential area being pooled which, at the election of the handler, had not been pooled prior to that time. The inclusion of the reports of this milk in the computation of the formula for adjusting the nearby differential has the effect of reducing the differential below what had been contemplated when the original order was drafted. Since each such report would affect the computation for the period of the following 12 months, the differential would be unduly affected during such period. By omitting the reports from any such plants filed during the suspension period from the computation for the succeeding months, the differential will be, from a practical standpoint, at the level contemplated had the suspension order not been issued.

E. It was proposed that § 1015.3(c)(2)(i) of the Connecticut milk order be amended to re-insert therein the following language which had been deleted from such provision by amendment effective July 1, 1962. The specific phrase in question followed the words "another New England Federal order" in such subdivision of the order and reads "or in any month in which it qualifies for pooling under another Federal order on the basis of shipments which exceed the shipments qualifying such plant for pooling pursuant to this subparagraph".

The stated purpose of re-insertion of the above language is to provide for pooling a supply plant under the Federal order for the market where the greatest shipment of milk is made, in those instances when minimum shipping requirements under two or more such orders are met. This kind of provision had been contained in the Connecticut order prior to July 1, 1962, with the exception that greater qualifying shipments could be made to Boston regulated plants without removing the Connecticut regulated plant from the Connecticut pool.

Emphasis was placed, in the testimony, on the relationship of the Connecticut regulation to the New York-New Jersey order and other orders outside New England since the several New England orders either currently provide that a supply-type plant will be pooled in the market to which the largest quantity of milk is shipped from the plant or have proposed amendments to that effect pending for decision as the result of an August 1962 hearing on such orders.

Adoption of the proposal would insure that when a supply plant meets the qualifying requirements for marketwide pooling under two or more orders, the plant will be included in the market pool for that market which it serves to the greatest degree and with which it has the closest association. Its adoption will assist to clarify the relationship between the market pooling provisions of one order operating in proximity to another for the benefit of any person shipping or contemplating the shipment of milk to more than one regulated market. For these reasons, the proposal would effectuate the orderly marketing of milk and therefore is adopted.

F. A cooperative association primarily associated with the Philadelphia market proposed that the pool plant definition of the New York-New Jersey order be revised so as to pool and price under Order No. 2 "all milk in plants and bulk tank units associated with the operation of that cooperative and sold into another federally regulated marketing area, if such plant or bulk tank units would come under Order No. 2 on the basis of its Class I–B sales under § 1002.29(d)".

In support it was stated that the proposal would assist to insure that the New York-New Jersey market would benefit from all the fluid sales associated with the surplus milk in the market pool.

It was contended that there cannot be "equal pricing" (in other markets where New York-New Jersey handlers supply milk) if some handlers (including any cooperative handler) who happen to be located on the fringe of the New York-New Jersey marketing area or have sales outside the area are granted the privilege of pool exemption on some of their milk. Particular reference was made to a cooperative, presumably one primarily associated with the New York-New Jersey market, which also supplies milk to other nearby markets where the percentages of Class I utilization are in excess of that of the Order No. 2 pool. It was stated further that the potential volumes of such milk moved through regulated pool plants as unpriced Class I–B milk exceeds substantially the potential for additional fluid sales into the Order No. 2 marketing area from sources not now under the regulation.

The pricing and pooling provisions of Order No. 2, under their present design, actually apply to specific quantities of milk rather than to plants as such. Consequently, there are instances where a plant may receive not only milk which is fully subject to pricing and pooling under the order but also other milk, designated for disposition outside the marketing area, which is not subject to the pricing and pooling provisions. Likewise, under the structure of the bulk tank unit provisions the handler may designate, under certain rules, his milk for pooling and, separately, other milk for use as nonpool milk, currently referred to as milk in "nonpool bulk tank units". The privilege of receiving nonpool milk in pool plants for disposition outside the marketing area is one of long standing under the order. The opportunity to designate both pool and nonpool bulk tank unit milk was first granted the handler under the terms of the "bulk tank" amendments to the order made effective December 1, 1961 (temporarily modified by the suspension order effective July 1, 1962).

The reference to such provisions made by proponent noted particularly sales by a cooperative handler into another Federally regulated marketing area. The record does not reveal, however, the extent to which such sales of unpriced milk handled in New York-New Jersey pool plants are made in either regulated or unregulated markets or the problems, if any, that may have been caused by milk handled in this manner. In the specific instance of the Philadelphia order, official notice of which is taken, the regulatory provisions provide for the pricing under that order of any such milk that may be disposed of in the Philadelphia marketing area. It may not be concluded on this record that such milk would have price advantage in the Philadelphia market and therefore cause disorderly marketing.

Whether it is necessary to require such milk received at New York-New Jersey pool plants to be pooled as producer milk should be based upon evidence that some disturbance to marketing conditions is, or is likely to be, the result of the present provisions. Such evidence is not contained in the present record and therefore the proposal is denied.

G. The numerous amendments necessary in the New York-New Jersey order to effectuate the foregoing conclusions

makes it desirable to reprint the order in its entirety. The following order provisions are substantively affected by these conclusions, or are renumbered: §§ 1002.6, 1002.7, 1002.10, 1002.12, 1002.13, 1002.17, 1002.24, 1002.25, 1002.27, 1002.28, 1002.29, 1002.35, 1002.42, 1002.43, 1002.44, 1002.45, 1002.46, 1002.51, 1002.71, 1002.76, and 1002.83.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the New York-New Jersey order. The following order amending the order as amended regulating the handling of milk in the New York-New Jersey marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

DEFINITIONS

§ 1002.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 1002.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1002.3 Marketing area.

"New York-New Jersey milk marketing area" (hereinafter called the "marketing area") means all of the territory within the boundaries of the city of New York, and the counties and parts of counties set forth in paragraphs (a) and (b) of this section together with all piers, docks, and wharves connected therewith, and all craft moored thereat, and including territory within such boundaries which is occupied by Government (Municipal, State, Federal, or International) reservations, installations, institutions, or other establishments.

(a) The city of New York and counties of Nassau, Suffolk (except Fisher's Island), and Westchester in the State of New York (such territory being referred to hereinafter as the "New York metropolitan district").

(b) The following counties and parts of counties in the State of New York: Albany; Broome; Cayuga (except the townships of Sterling, Victory, Conquest, and Montezuma); Chemung; Chenango; Columbia; Cortland; Delaware; Dutchess; that part of Essex consisting of the townships of Schroon, Ticonderoga, Crown Point, and Moriah; Fulton (except the township of Stratford); Greene; Herkimer (except the townships of Webb, Ohio, and Salisbury); Madison; Montgomery; Oneida (except the townships of Ava, Boonville, Forestport, and Florence); Onondaga; Orange; Oswego (except the townships of Redfield and Boylston); Otsego; Putnam; Rensselaer; Rockland; Saratoga (except the townships of Day, Edinburg, and Providence); Schenectady; Schoharie; Schuyler; that part of Steuben consisting of the townships of Addison, Corning, and Erwin; Sullivan; Tioga; Tompkins; Ulster; Warren (except the townships of Johnsburg, Thurman, and Stony Creek); Washington; and Yates (except the townships of Italy, Middlesex, and Potter); and in the State of New Jersey: Bergen; Essex; Hudson; Hunterdon; Middlesex; Monmouth; Morris; Ocean (except the boroughs of Barnegat Light, Beach Haven, Harvey Cedars, Ship Bottom, Surf City, Tuckerton, and the townships of Eaglewood, Lacey, Little Egg Harbor, Long Beach, Ocean, Stafford, and Union); Passaic; Somerset; Sussex; Union; and Warren.

§ 1002.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1002.5 Dairy farmer.

"Dairy farmer" means any person who produces milk.

§ 1002.6 Producer.

"Producer" means any dairy farmer who delivers pooled milk as specified in § 1002.17 to a pool plant, a pool bulk tank unit, a plant specified in § 1002.28 (f)(2) which is a partial pool plant, or a partial pool bulk tank unit whose pool designation was canceled for failure to meet the requirements specified in § 1002.26(a), except that it shall not include any such dairy farmer delivering to such partial pool plant or partial pool bulk tank unit unless at least 50 percent of his milk delivered to such plant or bulk tank unit is pooled milk pursuant to § 1002.17.

§ 1002.7 Handler.

"Handler" means (a) any person who engages in the handling of milk or products therefrom, which milk was received at a pool plant, a partial pool plant, at a farm included in a pool bulk tank unit or a partial pool bulk tank unit, or at a plant approved by any health authority as a source of milk for the marketing area, (b) any person who engages in the handling of milk, concentrated fluid milk, cultured or flavored milk drinks, cream, half and half, or skim milk, all or a portion of which is shipped to, or received in, the marketing area, or (c) any cooperative association with respect to milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association receives payment.

§ 1002.8 Plant.

"Plant" means the land, buildings, surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products as determined by the market administrator.

§ 1002.9 Pool plant.

"Pool plant" means any plant which is designated as a pool plant pursuant to § 1002.24 or § 1002.28.

§ 1002.10 Partial pool plant.

"Partial pool plant" means a plant so designated pursuant to § 1002.29.

§ 1002.11 Farm.

"Farm" means the production facilities and resources supplying milk to a milkhouse of a dairy farmer. The location of the farm shall be deemed to be the same as the location of the milkhouse, and in the event of a change in the location of the dairy farmer's milkhouse, any question as to whether milk received from the new milkhouse is from the same or a different farm shall be determined by the market administrator.

§ 1002.12 Pool bulk tank unit.

"Pool bulk tank unit" (hereinafter called "pool unit") means a bulk tank unit established pursuant to § 1002.25 and which meets the requirements of a pool unit pursuant to such section.

§ 1002.13 Partial pool bulk tank unit.

"Partial pool bulk tank unit" (hereinafter called "partial pool unit") means a bulk tank unit so designated pursuant to § 1002.25(k).

§ 1002.14 Own farm milk.

(a) "Own farm milk" means milk received at a plant from a farm operated by the person who is the operator of such plant.

(b) The market administrator shall publicly announce the name of any handler operating a pool plant receiving own farm milk and the location of the plant operated by such handler. This public announcement shall not include the name of (1) any person meeting the definition of producer-handler as set forth in § 1002.15, (2) any person receiving no milk from other dairy farmers and selling no more than 100 quarts per day of Class I-A milk to persons in the marketing area other than to other plants, or (3) an institution specified in § 1002.65(g)(4).

§ 1002.15 Producer-handler.

"Producer-handler" means a handler who, following the filing of an application pursuant to paragraph (a) of this section, has been so designated by the market administrator upon determination that the requirements of paragraph (b) of this section have been met. Such designation shall be effective on the first of the month after receipts by the market administrator of an application containing complete information on the basis of which the market administrator determines that the requirements of paragraph (b) are being met. The effective date of designation shall be governed by the date of filing new applications in instances where applications previously filed have been denied. All designations shall remain in effect until cancelled pursuant to paragraph (c) of this section.

(a) *Application.* Any handler claiming to meet the requirements of paragraph (b) of this section may file with the market administrator, on forms prescribed by the market administrator, an application for designation as a producer-handler. The application shall contain the following information:

(1) A listing and description of all resources and facilities used for the production of milk which are owned or directly or indirectly operated or controlled by the applicant.

(2) A listing and description of all resources and facilities used for the processing or distribution of milk or milk products which are owned, or directly or indirectly operated or controlled by the applicant.

(3) A description of any other resources and facilities used in the production, handling, or processing of milk or milk products in which the applicant in any way has an interest, including any contractual arrangement, and the names of any other persons having or exercising any degree of ownership, management, or control in, or with whom there exists any contractual arrangement with respect to, the applicant's operation either in his capacity as a handler or in his capacity as a dairy farmer.

(4) A listing and description of the resources and facilities used in the production, processing, and distribution of milk which the applicant desires to be determined as his milk production, processing, and distribution unit in connection with his designation as a producer-handler: *Provided,* That all milk production resources and facilities owned, operated, or controlled by the applicant either directly or indirectly shall be considered as constituting a part of the applicant's milk production unit in the absence of proof satisfactory to the market administrator that some portion of such facilities or resources do not constitute an actual or potential source of milk supply for the applicant's operation as a producer-handler.

(5) Such other information as may be required by the market administrator.

(b) *Requirements.* (1) The handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles milk received from production facilities and resources (milking herd, buildings housing such herd, and the land on which such buildings are located) the operation and management of which also are under the complete and exclusive control of the handler (in his capacity as a dairy farmer), all of which facilities and resources for the production, processing, and distribution of milk constitute an integrated operation over which the handler (in his capacity as a producer-handler) has and exercises complete and exclusive control.

(2) The handler, in his capacity as a handler, handles no whole milk, fluid skim milk, or cream other than that derived from the milk production facilities and resources designated as constituting the applicant's operation as a producer-handler.

(3) The handler is not, either directly or indirectly, associated with control or management of the operation of another plant or another handler, nor is another handler so associated with his operation.

(4) The handler sells more than an average of 100 quarts per day of Class I-A milk to persons in the marketing area other than to other plants.

(5) In case the plant of the applicant was operated by a handler whose designation as a producer-handler previously had been cancelled pursuant to paragraph (c) of this section, the quantity of whole milk, fluid skim milk, or cream handled during the 12 months preceding the application which was derived from sources other than the designated milk production facilities and resources constituting the applicant's operation as a producer-handler is less than the volume set forth for cancellation pursuant to subparagraphs (3) or (4) of paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under conditions set forth in subparagraphs (1) and (2) of this paragraph or, except as specified in subparagraphs (3) and (4) of this paragraph, upon determination by the market administrator that any of the requirements of paragraph (b) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met.

(1) Milk from the designated production facilities and resources of the producer-handler is delivered in the name of another person as pooled milk to another handler or except in the months of June through November with prior notice to the market administrator, a dairy herd, cattle barn, or milking parlor is transferred to another person who uses such facilities or resources for producing milk which is delivered as pooled milk to another handler. This provision, however, shall not be deemed to preclude the occasional sale of individual cows from the herd.

(2) A dairy herd, cattle barn, or milking parlor, previously used for the production of milk delivered as pooled milk to another handler, is added to the designated milk production facilities and resources of the producer-handler, except in the months of December through May, with prior notice to the market administrator, or if such facilities and resources were a part of the designated production facilities and resources during any of the preceding 12 months. This provision, however, shall not be deemed to preclude the occasional purchase of individual cows for the herd.

(3) If the producer-handler handles an average of more than 150 product pounds per day each or in aggregate of whole milk, fluid skim milk, or cream, which are derived from sources other than the designated milk production facilities and resources, the cancellation of designation shall be effective the first of the month in which he handled such milk, skim milk, or cream.

(4) If the producer-handler handles whole milk, fluid skim milk, or cream derived from sources other than the designated milk production facilities and resources in a volume less than specified in subparagraph (3) of this paragraph, the designation shall be cancelled effective on the first of the month following the third month in any six-month period in which the producer-handler handled such milk, skim milk, or cream: *Provided,* That the receipt of up to an average of ten pounds per day each or in aggregate of packaged fluid skim milk or cream shall not be counted for purposes of this subparagraph.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant, and farm location of persons designated as producer-handlers, and those whose designations have been cancelled. Such announcements shall be controlling with respect to the accounting at plants of other handlers for milk received from such producer-handler on and after the first of the month following the date of such announcement.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler (and upon the applicant for such designation) to establish through records required pursuant to § 1002.54 that the require-

ments set forth in paragraph (b) of this section have been and are continuing to be met and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1002.16 Another order.

"Another order" means an order issued by the Secretary pursuant to the Act, which order regulates the handling of milk in a marketing area other than that defined in this part.

§ 1002.17 Pool milk.

"Pool milk" means any milk except as set forth in paragraphs (a) through (h) of this section which is delivered by a dairy farmer at the farm into a tank mounted on a truck or trailer for a handler who has included such farm in a pool bulk tank unit or a partial pool bulk tank unit or which is delivered direct from farm to pool plant or partial pool plant but is not put into a tank truck prior to such delivery. Each dairy farmer delivering milk to a partial pool plant or a partial pool bulk tank unit shall be considered to have delivered pool milk for his proportionate share of total milk delivered by dairy farmers to such plant or unit.

(a) Milk delivered by other than tank truck direct to a nonpool plant or delivered in bulk at the farm to a handler who has not included such farm in a pool bulk tank unit or a partial pool bulk tank unit.

(b) Milk first received at a pool plant which otherwise would be considered producer milk under another order issued pursuant to the Act to the extent that such milk is assigned to Class III.

(c) Milk first received at a pool plant which otherwise would be considered producer milk under Part 1015 of this chapter.

(d) Milk delivered by a pool bulk tank unit direct to a plant other than a pool plant or a partial pool plant if such milk is defined as producer milk under another order.

(e) Milk delivered at the farm into a tank truck to a handler during any of the months of December through June if any milk from such farm was delivered to such handler as producer milk under another order during any of the preceding months of July through November unless such farm becomes part of a partial pool bulk tank unit.

(f) Milk delivered to a partial pool plant set forth in § 1002.29(a) and milk of a partial pool bulk tank unit pursuant to § 1002.25(k)(1) in excess of the quantity of such milk classified as Class I-A and Class I-B and skim milk subject to the fluid skim differential.

(g) Milk delivered to a partial pool plant set forth in § 1002.29(b) and milk of a partial pool bulk tank unit pursuant to § 1002.25(k)(2) in excess of the quantity of such milk classified as Class I-A, or as skim milk subject to the fluid skim differential except that if milk is shipped from a partial pool plant in the 401 miles and over freight zone to a plant from which 50 percent or more of the gross receipts of milk leave in the form of milk in consumer packages or dispenser inserts and are classified as Class I-A, all of the milk so shipped shall be considered to be producer milk except as set forth in paragraph (h) of this section.

(h) Milk delivered to a partial pool plant or a partial pool bulk tank unit if in either case such milk is considered producer milk under another order with a provision for marketwide equalization.

§ 1002.18 Market administrator.

"Market administrator" means the agency, which is described in §§ 1002.20 through 1002.23 for the administration of this part.

MARKET ADMINISTRATOR

§ 1002.20 Selection, removal, and bond.

The agency for the administration of this part shall be a market administrator who shall be a person selected and subject to removal by the Secretary. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

§ 1002.21 Compensation.

The market administrator shall be entitled to such reasonable compensation as shall be determined by the Secretary.

§ 1002.22 Powers.

The market administrator shall have the following powers:

(a) To administer the terms and provisions of this part;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 1002.23 Duties.

The market administrator, in addition to the duties hereinafter described, shall:

(a) Keep such books and records as will clearly reflect the transactions provided for in this part;

(b) Submit his books and records to examination by the Secretary at any and all times;

(c) Furnish such information and such verified reports as the Secretary may request;

(d) Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the market administrator;

(e) Publicly disclose, after reasonable notice, the name of any person who has not made reports pursuant to §§ 1002.50, 1002.51, and 1002.53 or made payments required by §§ 1002.70, 1002.71, 1002.72, 1002.77, 1002.80, 1002.82, 1002.84, and 1002.90;

(f) Prepare and disseminate for the benefit of producers, consumers, and handlers such statistics and information concerning the operation of this part as do not reveal confidential information;

(g) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this part;

(h) Pay out of the funds received pursuant to § 1002.90 the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, his own compensation, and all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties;

(i) Maintain a main office and such branch offices as may be necessary; and

(j) Promptly notify a handler, upon receipt of the handler's written request therefor, of his determination: as to whether one or more plants exist at a specified location, as to whether any specified item constitutes a part of the handler's plant, or as to which plant a specified item is a part in the event that the particular premises in question constitutes more than one plant: *Provided,* That if the request of the handler is for revision or affirmation of a previous determination, there is set forth in the request a statement of what the handler believes to be the changed conditions which make a new determination necessary. If a handler has been notified in writing of a determination with respect to an establishment operated by him, any revision of such determination shall not be effective prior to the date on which such handler is notified of the revised determination.

POOL PLANTS AND BULK TANK UNITS

§ 1002.24 Regular pool plants.

A plant may be designated a regular pool plant pursuant to either paragraph (a) or paragraph (b) of this section. Designation shall be applicable to the plant as such and subject to cancellation only pursuant to § 1002.27, regardless of change in the person owning or operating the plant. The market administrator shall be notified by the handlers involved of any transfer from one person to another of ownership or operation of a pool plant.

(a) Any plant shall be designated a pool plant upon determination by the Secretary that the provisions of subparagraphs (1) through (4) of this section have been met. Not later than the end of the month following the month in which an application is received by the Secretary pursuant to subparagraph (1) of this section, the Secretary shall either determine that the provisions of subparagraphs (1) through (4) of this section either have been met or have not been met, or notify the applicant that additional information is needed prior to making a determination. Such designation shall be effective the first of the month following the date of designation and shall continue until such designation is canceled pursuant to § 1002.27: *Provided,* That notwithstanding the provisions of subparagraphs (1) through (4) of this section, any plant which for the month of June 1957 had a designation pursuant to §§ 927.20, 927.22, or 927.25 as then in effect, and which is not canceled prior to the effective date of this section, is hereby designated a regular pool plant from the effective date of this section until such designation is canceled pursuant to § 1002.27: *Provided further,* That notwithstanding the pro-

visions of subparagraphs (1) through (4) of this section, any plant for which an application is filed by the operator with the market administrator by not later than 15 days after the effective date of this section, and which had a pool plant designation of any kind for each of the 12 months of April 1956 through March 1957, or as to which it is determined by the market administrator that 50 percent or more of the milk received at the plant from dairy farmers during the 12-month period of April 1956 through March 1957 was utilized as fluid milk in the marketing area, is hereby designated a regular pool plant from the effective date of this section until such designation is canceled pursuant to § 1002.27.

(1) An application by the operator of the plant for such determination has been addressed to the Secretary and filed at the office of the market administrator: *Provided,* That if 50 percent or more of the dairy farmers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant but for which milk such association receives payment, an application must be filed by such cooperative association as well as the person operating the plant.

(2) The plant is located in New York, New Jersey, or Pennsylvania.

(3) The plant was a pool plant either pursuant to paragraphs (a) and (b) of § 1002.28 hereof, or pursuant to § 927.27 as in effect immediately prior to the effective date of this section, for each of the 12 months immediately preceding the month during which an application is filed.

(4) The operating requirements of § 1002.26 are being met.

(b) A plant may be designated at any time as a regular pool plant upon application made by the person operating the plant to the Secretary showing that the plant is a replacement for one or more pool plants, designated pursuant to this section, which are operated by him and that substantially all of the dairy farmers delivering milk at the plant previously delivered milk to the pool plant or plants replaced.

§ 1002.25 Bulk tank units.

Any handler receiving milk at farms in a tank truck shall establish such farms in one or more bulk tank units (hereinafter called "units"), each consisting of one or more farms, in accordance with provisions of this section. Any handler who receives milk at a pool plant or a plant distributing milk in the marketing area which is delivered from a farm to such plant in a tank truck shall be deemed to have received such milk from a unit, pool, partial pool, or nonpool, and any handler who receives bulk milk from a farm in a tank truck containing pool milk shall be deemed to have received such milk from a farm of a unit either pool, partial pool, or nonpool.

(a) Handlers who may establish, maintain, and be responsible for pool units are as follows:

(1) A handler who operates a pool plant or a handler who operates a plant from which Class I-A milk is distributed in the marketing area other than to another plant: *Provided,* That a handler who is affiliated with or is a subsidiary of a handler operating a pool plant may also operate pool units if both handlers notify the market administrator in writing of such relationship: *Provided further,* That such handler who operates a distributing plant but not a pool plant to be eligible to maintain a pool unit for any month must have milk of such unit for such month classified as Class I-A and I-B in a percentage at least as great as the utilization percentage computed pursuant to § 1002.40(a)(3) for the same month of the preceding year.

(2) A cooperative handler who does not operate a plant but who receives milk from farms in a tank truck and delivers such milk to plants of other handlers if such cooperative for 12 months has been qualified as a basis for payments pursuant to § 1002.81 or if such cooperative has operated a pool unit for 12 consecutive months: *Provided,* That such cooperative must meet the definition of a cooperative set forth in § 1002.81(a)(1).

(3) Any other cooperative handler who does not operate a plant if such cooperative meets the definition of a cooperative set forth in § 1002.81(a)(1) subject to the conditions of this section.

(4) For the months specified in subdivision (i) or (ii) of this subparagraph, any other handler operating a unit in any of the months of April, May, or June which unit had for such month any milk classified as Class I-A (on some basis other than failure to account for such milk) and had a total Class I-A and Class I-B classification in a percentage at least as great as the utilization adjustment percentage (as calculated pursuant to § 1002.40(a)(3)) for the same month in the preceding year.

(i) Such month.

(ii) Each of the months through March following such month except for any month when the Class I-B or combined Class I-A and Class I-B of such unit is less than 60 percent.

(b) The handler may establish the units in any manner chosen by him, subject to the following limitations:

(1) Each unit shall have a headquarters where the basic record of receipts and butterfat tests of milk from each farm are maintained and where there is maintained the basic record of each receipt and each delivery of milk by each tank truck receiving milk from farms of the unit and related details with respect to the movement of such milk.

(2) Each unit shall be given a name indicating the general geographic area in which farms comprising such unit are located.

(3) The handler shall declare whether each unit is to be operated as a pool unit. Farms from which the milk is to be pooled shall be established in a separate unit from those which are not to be pool.

(4) Farms in the area specified in paragraph (e) of this section shall be in units separate from farms in the area specified in paragraph (f) of this section.

(c) Except as set forth in subparagraphs (1) through (5) of this paragraph, a handler may declare that a unit is to be operated as a pool unit and at any time may add a farm to a pool unit: *Provided,* That the milk of such unit or farm is delivered to a pool plant or a plant from which Class I-A milk is distributed in the marketing area on one day of the first month in which it is to be pooled and is under full approval for fluid use by the health authority or authorities approving such plant: *Provided further,* That a handler pursuant to paragraph (a)(4) of this section may not add farms to a pool unit during the months of July through March unless his Class I-A milk exceeds the total receipts of milk from the pool unit, and in the latter case he may add only the smallest number of farms necessary to provide sufficient milk to cover all Class I-A and fluid skim milk utilization.

(1) If the unit is a declared nonpool unit or if the farm is a part of a declared nonpool of such handler, the unit or farm may be changed to a pool status only beginning the first day of a month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month except as specified in subparagraph (5) of this paragraph.

(2) In the period of December through June, no new pool unit may be established, no nonpool or partial pool unit may be declared to be a pool unit, and no farm may be added to a pool unit if the handler caused, as specified in paragraph (d) of this section, any pool unit or any farm of a pool unit to become nonpool in the period of July through November immediately preceding: *Provided,* That this limitation shall not prevent the handler from including in a pool unit a farm which for the first time has converted from can delivery to bulk tank delivery and from which the handler received as pool milk all milk delivered by such farm in cans for a period of 30 days immediately preceding: *Provided further,* That except in the case set forth in paragraph (d)(3) of this section this subparagraph shall not be applicable if the farm which is caused to become nonpool thereby becomes a producer form under another order with a provision for marketwide equalization.

(3) No farm which was caused to become nonpool may be made a part of a pool unit by a handler set forth in subdivisions (i) through (iv) of this subparagraph until after the passage of a complete April-May-June period following the time such farm was caused to become nonpool:

(i) The handler who caused the farm to become nonpool.

(ii) The handler or other person who received the milk as nonpool milk.

(iii) A handler who is substantially under the same management control, or ownership as the handler or other person set forth in subdivisions (i) or (ii) of this subparagraph.

(iv) A handler who receives the milk through arrangement with the handler or other person set forth in subdivisions (i), (ii), or (iii) of this subparagraph.

(4) A handler may transfer a farm from one pool unit to another of his pool

units on the first day of any month upon notice to the market administrator by not later than the 10th day of such month.

(5) A farm shall automatically be added to a pool unit or a nonpool unit shall automatically become a pool unit effective the first day of any month in which any of the milk of such farm or unit is assigned pursuant to § 1002.35 to Class I-A or skim milk subject to the fluid skim differential unless the handler is precluded from doing so pursuant to subparagraphs (2) and (3) of this paragraph or unless such milk is considered producer milk under another order with a provision for marketwide equalization. If some but not all milk received from such farms previously a part of a nonpool unit is assigned to Class I-A, the handler operating such unit has until the time of filing the report required pursuant to § 1002.50 to specify which farms are to be added to a pool unit. In absence of such specification, all eligible farms shall be added to the pool unit.

(d) A handler may cause a pool unit or a farm which is a part of a pool unit to become nonpool by the methods set forth in subparagraphs (1) through (4) of this paragraph: *Provided,* That the failure of a unit to meet the pool requirements set forth in paragraph (f) of this section shall not be considered for purposes of this paragraph to be a change of pool status caused by the handler: *Provided further,* That a handler pursuant to paragraph (a)(4) of this section must continue in a pool unit any farm which was a part of such handler's pool unit in any of the months of April, May, or June preceding from which he receives milk or from which any other handler receives milk through arrangement with him: *Provided further,* That if a unit operated by a handler is reported by another handler which is a cooperative, the actions specified in subparagraphs (1), (2), and (4) of this paragraph must be concurred in by such cooperative handler.

(1) The handler may change the status of a declared pool unit to a declared nonpool unit effective the first day of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(2) The handler may transfer a farm from a pool unit to a nonpool unit effective the first day of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(3) The handler may so operate a unit located in the area specified in paragraph (e) of this section that its pool status is canceled pursuant to § 1002.27.

(4) The handler may arrange for the milk of a farm in his pool unit to be delivered to another person as nonpool milk. Any delivery of milk by a farm in a handler's pool unit to another person as nonpool milk shall be considered to have been arranged by such handler unless such handler can establish that such other person is not substantially under the same management, control, or ownership as such handler and that such handler was in no way a party to such nonpool delivery.

(e) A declared pool unit must be operated to meet the requirements set forth in § 1002.26 if the farms of such unit are located in the following area: New York; New Jersey; the counties of Addison, Rutland, and Bennington in Vermont; the county of Berkshire in Massachusetts; or in Pennsylvania. Failure to meet such requirements shall make such declared pool unit subject to suspension and cancellation pursuant to the procedure set forth in § 1002.27. This paragraph shall not be applicable to a cooperative handler specified in paragraph (a)(3) of this section.

(f) A declared pool unit made up of farms located outside the area specified in paragraph (e) of this section or a declared pool unit made up of farms specified in paragraph (e) of this section and operated by a cooperative handler specified in paragraph (a)(3) of this section shall be a pool unit in the months of July through March if at least 25 percent of the milk in such unit is delivered in such month to pool plants, and shall be a pool unit in the months of April through June only if 60 percent of the milk of such unit was received at pool plants during the period of October through December immediately preceding or if such handler received no milk of such unit or from farms of such unit in the preceding October through December.

(g) Any unit declared to be a pool unit shall be designated a pool unit in any month (1) if the handler is qualified in such month pursuant to paragraph (a) of this section, (2) if such unit meets all the requirements of this section applicable to it to be a pool unit, or (3) if the designation of such unit has not been cancelled pursuant to § 1002.27.

(h) Each handler shall report to the market administrator, not later than the 20th day of the month in which this paragraph becomes effective, the name and headquarters of each unit established by him, the identification of the farms included in each unit, and his declared status (pool or nonpool) of each unit. Thereafter, each handler shall report by not later than the 10th day of the month any changes in units during the preceding month and as of the first day of such month.

(i) Whenever the market administrator finds that a handler has received bulk tank milk from a farm required to be included in an established unit but which has not been so included, he shall tentatively assign such farm to a unit and promptly notify the handler of such action. Unless otherwise requested by the handler within 10 days of such notice, the tentative assignment by the market administrator will become final.

(j) Whenever the market administrator finds that a handler has caused milk to become nonpool pursuant to paragraph (d)(4) of this section he shall promptly notify the handler of such finding. Within 10 days of such notice the handler may, except as to any such milk pooled under another order, (1) make a written claim that the failure to include the milk involved as pool milk was an error and, in such event, the market administrator shall pool such milk and rescind his finding, or (2) make a written offer to submit proof that he had not caused such milk to become nonpool. In the latter event, the market administrator shall examine such proof and shall either rescind his original finding or confirm it. Failure to respond to the market administrator's notice shall be deemed to confirm the finding.

(k) Units other than those which are pool units pursuant to paragraph (g) of this section shall be designated partial pool units if they meet the provisions set forth in subparagraphs (1) and (2) of this paragraph.

(1) Any nonpool unit which would have been automatically made a pool unit pursuant to paragraph (c)(5) of this section except that the handler is precluded from adding farms thereof to a pool unit pursuant to paragraphs (c)(2) and (c)(3) of this section. If a unit of a handler becomes a partial pool unit pursuant to this subparagraph, all of the handler's pool units and partial pool units shall be combined and the milk of the partial pool units assigned to Class III of such combined total prior to any of the partial pool unit milk being assigned to Class I-A.

(2) Any unit the milk of which fails to meet the pooling requirements of paragraph (f) of this section, or any unit operated by a handler not specified in paragraph (a) of this section, as being eligible to establish and maintain pool units, or any unit made up of farms located in the 401 miles and over freight zone unless the handler operating such unit is eligible to establish a pool unit and has specifically requested such unit to be so designated.

(l) The market administrator shall publicly announce the names of handlers establishing pool units and the names and headquarters of such units. He shall also publicly announce any change in the pool status of such units, and the names of handlers who are ineligible to add farms to a pool unit under the terms set forth in paragraph (c)(3) of this section.

§ 1002.26 Operating requirements.

The person operating a pool plant designated pursuant to § 1002.24 or a declared pool unit consisting of farms in the area specified in § 1002.25(e) shall stipulate to each of the following requirements:

(a) Be willing to dispose of as Class I-A milk in the marketing area milk received at the plant or on the unit from dairy farmers: *Provided,* That if a plant designation is canceled for failure to meet this requirement, the Class I-A and Class I-B milk of such plant through the partial pool plant provision shall be priced and equalized from the effective date of cancellation through the following June 30.

(b) Keep such control over the sanitary conditions under which milk received at the plant or on the unit is pro-

duced and handled that the milk can meet the requirements of a source of milk for the marketing area: *Provided,* That approval by a health authority of the plant as a source of milk for the marketing area shall constitute sufficient evidence that this requirement is being met even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant or for shipment of approved skim milk from such plant; and

(c) Have no commitments for disposition of milk that prevent him from utilizing milk as set forth in § 1002.27(g).

§ 1002.27 Suspension and cancellation of designation.

The designation of a pool plant pursuant to § 1002.24 or of a declared pool unit consisting of farms in the area specified in § 1002.25(e) may be suspended or canceled under any of the following provisions:

(a) The designation shall be canceled effective on the first of the month following the filing with the market administrator, and on a form prescribed by him, of an application by the handler operating the plant: *Provided,* That a plant whose designation is so canceled on the first of any of the months of August through November shall be a pool plant if it meets the provisions of paragraph (e) of § 1002.28, and shall not be a pool plant pursuant to any other provision of this order prior to December 1 following such cancellation: *Provided further,* That such application for cancellation shall be accompanied by proof that the handler, if not a cooperative association qualified pursuant to § 1002.81 has notified any qualified cooperative association which has any members who deliver milk to such plant, and has notified individually all producers delivering to such plant who are not members of such qualified cooperative association, of his intention to make such application: *Provided further,* That if 50 percent or more of the producers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant but for which milk such association receives payment, an application must be made by such cooperative association as well as by the handler operating the plant: *Provided further,* That if a handler applies for a replacement designation pursuant to § 1002.24(b), the designation of the plant or plants replaced shall be canceled automatically at the time the replacement designation becomes effective.

(b) The designation of any plant which on June 15 of any year is not approved by a health authority as a source of milk for the marketing area shall be automatically suspended effective on August 1 of such year unless the absence of such approval is a temporary condition covering a period of not more than 15 days: *Provided,* That the designation of a plant approved by a health authority as a source of milk for the marketing area, even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant or for shipment of approved skim milk from such plant, shall not be suspended pursuant to this provision.

(c) The designation of any plant or unit shall be suspended, effective no sooner than 10 days nor later than 20 days after the date of mailing of notice, by registered letter, to the handler, whenever the market administrator, subject to the limitations set forth in paragraphs (g) and (i) of this section, finds on the basis of available information that the handler operating the plant or unit is not meeting the requirements set forth in § 1002.26: *Provided,* That, if the handler operating the plant or unit is not a cooperative association qualified pursuant to § 1002.81, the market administrator shall notify any qualified cooperative association which has any members who deliver milk to such plant or unit, and shall also notify individually all producers delivering to such plant or unit who are not members of such qualified cooperative association, of such suspension of designation.

(d) In the case of suspension pursuant to this section of the designation of one or more plants or units for failure to meet the requirements of § 1002.26(a) or (c) the handler operating such plant or unit may select, prior to the effective date of such suspension, one or more other pool plants or pool units consisting of farms in the area specified in § 1002.25 (e) for suspension in lieu thereof if, during the preceding month, the quantity of pool milk received from producers at such substituted plants or units was not less than the quantity of pool milk received from producers at the plants or units named for suspension. The handler may also select the order in which plant or unit designations are to be canceled in the event of a later determination by the Secretary canceling the designation of some but not all of the plants or units suspended.

(e) Not later than 10 days after the effective date of suspension of designation pursuant to this section, the handler operating the plant or unit may apply to the Secretary for a review. If the handler fails to so apply for such review, the designation shall be canceled as of the effective date of the suspension. If the handler does so apply, the Secretary shall, after review, either determine that the requirements set forth in § 1002.26 have been met and order the suspension revoked, or determine that such requirements have not been met and order the designation canceled as of the effective date of the suspension: *Provided,* That, if the Secretary has made no determination within two months after the end of the month in which the suspension was made effective, but later orders the designation canceled, such cancellation shall be effective as of the first of the month following the date of such determination.

(f) Beginning with the effective date of a suspension pursuant to this section, and until the Secretary has either ordered the designation canceled or ordered the suspension revoked, the plant or unit shall be treated as a pool plant or pool unit: *Provided,* That all payments into or out of this producer settlement fund (except such payments on the basis of operations during a month in which the plant meets the requirements of § 1002.28 or the unit meets the requirements of § 1002.25(g) shall be held in reserve by the market administrator until an order is issued by the Secretary, but not longer than two months after the end of the month in which the suspension was made effective.

(g) No pool plant or pool unit designation shall be suspended for failure to meet the requirements of § 1002.26(a) except under the following conditions:

(1) A meeting has been held no sooner than three days after notice by the market administrator to all handlers operating pool plants designated pursuant to § 1002.24 or pool units consisting of farms in the area specified in § 1002.25(e) for consideration of the desirable utilization of milk received from producers during a period ending not later than the end of the second month after the month during which such meeting is held.

(2) There has been issued by the market administrator, following such meeting, and mailed to all handlers operating pool plants designated pursuant to § 1002.24 or pool units consisting of farms in the area specified in § 1002.25(e) the market administrator's determination of the desirable utilization of milk received from producers each month during all or a part of the period set forth in subparagraph (1) of this paragraph. Such determination shall include a schedule setting forth, by months, the desired minimum percentage of pool milk received from producers to be utilized in specified classes. Such specified classes shall include Class I-A, and may include all or a part of Class I-B and Class II.

(3) The market administrator finds on the basis of available information that the handler operating a plant or unit or the cooperative reporting a plant or unit is not utilizing milk received from producers in accordance with the minimum percentage set forth in the determination of the market administrator previously announced pursuant to subparagraph (2) of this paragraph: *Provided,* That the suspension of the designation of a plant or unit may be made effective during the months of November and December if the market administrator finds that the handler is utilizing any milk received from producers in classes other than those set forth in the determination of the market administrator announced pursuant to subparagraphs (2) of this paragraph.

(h) The cancellation of pool plant or pool unit designation for failure to meet the requirements of § 1002.26(a) shall be subject to the following conditions:

(1) No pool plant or pool unit designation shall be canceled if the handler operating the plant or unit utilized the milk received by him from producers during the month in which the suspension is made effective in accordance with the minimum percentage set forth in the determination of the market administra-

tor announced pursuant to paragraph (g)(2) of this section.

(2) No pool plant or pool unit designation shall be canceled if the handler operating the plant or unit utilized in the specified classes set forth in the determination of the market administrator announced pursuant to paragraph (g)(2) of this section a percentage of the total milk received by him from producers during the month in which the suspension is made effective which is not less than the percentage of the total pool milk reported by all handlers for such month to have been used in the specified classes.

(3) In the event that all milk received from producers at a plant or unit is reported to the market administrator by a cooperative association qualified pursuant to § 1002.81 and such association pays the producer for such milk, the pool plant or pool unit designation shall not be canceled if a percentage of all milk reported by such cooperative association is utilized in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to paragraph (g)(2) of this section, or in accordance with the percentage set forth in subparagraph (2) of this paragraph.

(4) Cancellation of designations shall be limited to those plants or units necessary to result in a utilization of milk received at the remaining pool plants and pool units operated by the handler, or reported by the cooperative, as the case may be, in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to paragraph (g)(2) of this section.

(i) Loss of approval by health authorities of a plant as a source of milk for the marketing area may in itself constitute adequate reason for the market administrator to suspend the designation of plant for failure to meet the requirements of § 1002.26(b) only if the absence of such approval continues for more than 15 days.

§ 1002.28 Temporary pool plants.

Except for plants which, pursuant to paragraph (e) of this section, are not eligible for designation, any plant not designated pursuant to § 1002.24 shall automatically be designated a pool plant in accordance with provisions of paragraphs (a) through (d) of this section: *Provided*, That no plant shall be a pool plant pursuant to this section in any month in which it is a pool plant pursuant to provisions of Part 1015 of this chapter, or in any of the months of December through June if it was a pool plant pursuant to provisions of Part 1015 of this chapter in each of the preceding months of July through November.

(a) For any of the months of January through March and July through December, any plant at which 25 percent or more of the receipts of milk from dairy farmers and units is classified in Class I-A on some basis other than the failure to account for such milk shall automatically be designated a pool plant for such month: *Provided*, That at the option of the handler the plant shall not be a pool plant if less than 25 percent of such milk from other than pool units is classified in Class I-A.

(b) For any of the months of April, May, or June, any plant at which during the preceding period of October, November, and December either (1) no milk was received from dairy farmers or units, or (2) 60 percent or more of the milk received from dairy farmers and units was classified in Class I-A on some basis other than the failure to account for such milk, shall automatically be designated a pool plant for any of such months of April, May, or June in which 10 percent or more of the milk received from dairy farmers and units is classified in Class I-A on some basis other than the failure to account for such milk: *Provided*, That at the option of the handler the plant shall not be a pool plant if less than 10 percent of such milk from other than pool units is classified in Class I-A.

(c) Any plant which is a pool plant in any of the months of April, May, or June on the basis of paragraph (b) of this section or on the basis of paragraph (d) of this section and in the latter case, the percentage of milk from dairy farmers and units classified as Class I-A is at least as great as the utilization percentage calculated pursuant to § 1002.40(a)(3) for the same month of the previous year, shall be a pool plant in any of the months of July through March following in which 60 percent or more of the milk received at the plant from dairy farmers and units is classified in Class I-B, or Class I-A and Class I-B.

(d) Any plant which for any month is not a pool plant because of failure to meet the requirements of paragraph (a), (b), or (c) of this section shall be a pool plant in any month in which a daily average of at least 800 pounds of milk received from dairy farmers and units is classified as Class I-A on some basis other than failure to account for such milk and if the percentage of such milk classified as Class I-A and Class I-B is at least as great as the utilization percentage calculated pursuant to § 1002.40(a)(3) for the same month in the preceding year: *Provided*, That at the option of the handler, the plant shall not be a pool plant if none of such milk from other than pool units is classified in Class I-A: *Provided further*, That such plant shall not be a pool plant if, in the absence of this provision, milk received from farmers and units at the plant would be classified and priced under another order with a provision for marketwide equalization, and if the percentage of the milk received from dairy farmers and units at the plant which is classified as Class I-B and disposed of in the marketing area defined in such other order is greater than the percentage of such milk classified as Class I-A: *Provided further*, That such plant shall not be a pool plant on the basis of this paragraph if it is located in the 401 miles and over freight zone.

(e) A plant whose regular pool plant designation has been canceled at the request of the handler on the first of any of the months of August through November shall be a pool plant in any month through November 30 following such cancellation if the percentage of such milk classified as Class I-A, Class I-B or Classes I-A and I-B combined is at least as great as the utilization percentage calculated pursuant to § 1002.40(a)(3) for the same month in the preceding year unless such plant qualifies as a pool plant under another order with a provision for marketwide equalization.

(f) A plant shall not be a pool plant on the basis of this section for the periods and under the conditions set forth in subparagraphs (1), (2), and (3) of this paragraph.

(1) If the pool plant designation was canceled on the first of August, September, October, or November pursuant to § 1002.27(a) for the period through November 30th except as specified in paragraph (e) of this section.

(2) If the pool plant designation was canceled pursuant to § 1002.27 for failure to meet the requirements of § 1002.26(a), for the period from the date the cancellation was effective through the following June 30th.

(3) If the plant was a pool plant pursuant to provisions of Part 1015 of this chapter in each of the months of July through November of any year, for the months of December through June following.

(f) For purposes of the computations of percentages set forth in this section, the quantity of skim milk subject to the fluid skim differential shall be considered Class I-A.

(g) At the time of announcing the uniform price for each month, the market administrator shall make public the location and name of the operator of any plant for which a report of receipts from dairy farmers was used pursuant to this section in the computation of that uniform price.

§ 1002.29 Partial pool plants.

The following plants not designated pool plants pursuant to § 1002.24 and § 1002.28 shall be designated partial pool plants:

(a) Plants set forth in § 1002.28(f): *Provided*, That a plant specified in subparagraph (3) of such paragraph shall be a partial pool plant only if such plant classified milk received from dairy farmers or nonpool units in Class I-A on some basis other than failure to account for such milk and if such plant is not a pool plant under another order with a provision for marketwide equalization.

(b) Plants other than those set forth in paragraph (a) of this section which have some milk received from dairy farmers or nonpool units classified as Class I-A on some basis other than failure to account for such milk, or classified as skim milk subject to the fluid skim differential, except a plant which would otherwise qualify as a pool plant pursuant to § 1002.28(d) but which has less than a daily average of 800 pounds of milk received from dairy farmers or units classified as Class I-A on some basis other than failure to account for such milk.

CLASSIFICATION

§ 1002.30 Basis of classification.

All pool milk, all milk intermingled with pool milk, all milk the butterfat from which is received at a plant at which the classification of pool milk is to be determined pursuant to § 1002.33, and all milk entering the marketing area in the form of milk, concentrated fluid milk, fluid milk products, cultured or flavored milk drinks, cream, half and half, fluid cream products, or skim milk shall be classified in accordance with the form in which it is held at, or moved from, the plant or tank truck at which classification is determined. Such classification shall be subject to the conditions set forth in §§ 1002.31 through 1002.35.

§ 1002.31 Burden of proof.

In establishing the classification of milk, the burden rests upon the handler who received the milk from producers or from a partial pool plant in the 401 miles and over freight zone to show that the milk should not be classified as Class I–A, and that the skim milk in Class II and Class III milk should not be subject to the fluid skim differential. The burden rests upon the handler who receives in the marketing area or at a pool plant, or distributes in the marketing area, milk, concentrated fluid milk, fluid milk products, cultured or flavored milk drinks, cream, half and half, fluid cream products, or fluid skim milk to establish the source of all of his milk and milk products, and in the absence of such proof such milk and the milk equivalent of such enumerated products shall be subject to the provisions of § 1002.84.

§ 1002.32 Period for establishing classification.

A period ending with the last day of the month following the month during which the milk was received from dairy farmers shall be allowed for handling such milk as a basis for establishing the classification as other than Class I–A: *Provided,* That the holding of milk in the form of cream in a licensed cold storage warehouse for at least seven days shall constitute that portion of the handling of such cream required pursuant to § 1002.37(d)(2) that is required to be performed during the month following its receipt from dairy farmers.

§ 1002.33 Plant or tank truck at which classification is to be determined.

Classification shall be determined at the plant at which milk is received from dairy farmers or from units, except that milk received in a tank truck at farms which is not delivered to a plant shall be classified in accordance with the form in which it is moved from the tank truck: *Provided,* That if the butterfat in such milk is shipped in the form of milk, cream, fluid cream products, half and half, or cultured or flavored milk drinks, or if the skim milk in such milk is shipped in the form of milk, fluid skim milk, condensed skim milk, half and half, cream, or cultured milk drinks to another plant or other plants, it shall be classified, subject to the provisions of paragraphs (a) and (b) of this section, at the plant to which shipped, and there shall be no limit on the number of interplant movements in such forms, except as set forth in paragraphs (a) and (b) of this section. For purposes of this section, classification of skim milk shall mean the determination of whether the skim milk is assigned to a product or use to which the fluid skim milk differential may be applicable.

(a) Except as set forth in paragraph (b) of this section, the classification of milk shipped in the form of milk and of milk the butterfat from which is shipped in the form of cream, fluid cream products, half and half, or cultured or flavored milk drinks, and of skim milk which is shipped in the form of fluid skim milk, condensed skim milk, half and half, cream, or cultured milk drinks to a nonpool plant shall be determined at the nonpool plant (unless such nonpool plant is in the marketing area, receives no milk from dairy farmers, and is engaged substantially either in distributing packaged milk, fluid skim milk, or cream in the marketing area or in shipping bulk milk or cream to a pasteurizing and bottling plant in the marketing area), unless the handler operating the pool plant from which such shipments were made to the nonpool plant elects in writing in his monthly reports to have the classification of such milk and skim milk determined at the pool plant from which such shipments were made to the nonpool plant.

(b) The classification of milk shipped in the form of milk more than 65 miles from the plant where received from dairy farmers or units and of milk the butterfat from which is shipped in the form of cream, fluid cream products, half and half, or cultured milk drinks more than 65 miles from the plant where such product is made to a plant outside Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York State, Ohio, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, or the District of Columbia shall be determined at the plant from which the milk or milk product is so shipped.

§ 1002.34 Plant loss.

Allowances for plant loss not to exceed five percent of the butterfat in the product resulting from any specific plant operation or unit operation, which plant loss may be classified the same as the milk equivalent of the butterfat in the product, shall be determined by the market administrator pursuant to § 1002.36.

§ 1002.35 Accounting procedure.

The accounting procedure for classifying milk, pursuant to §§ 1002.30 through 1002.37 shall be set up by the market administrator pursuant to § 1002.36. Such accounting procedure shall include conversion factors to be used in the absence of specific weights and tests, specific definitions of products, and such methods for assignment of milk to classes according to source and form as may be necessary to effectuate the provisions of §§ 1002.30 through 1002.37 and which are not inconsistent with the general principles set forth in paragraphs (a) through (g) of this section: *Provided,* That receipts of milk in consumer packages at a pool plant or a plant distributing milk through outlets other than to plants, which milk is classified and priced under another order, shall be assigned first to Class I–B, and then if the other order contains a provision for market-wide equalization, to Class I–A prior to the assignments specified in paragraphs (a) through (g) of this section: *Provided further,* That after the assignments in the first proviso herein, receipts of other milk at pool plants which milk is classified and priced under another order shall be assigned to milk classified as Class I–B in the marketing area defined pursuant to such other order prior to the assignments specified in paragraphs (a) through (g) of this section: *Provided further,* That after the assignments in the above provisos, receipts of milk from other orders with a provision for market-wide equalization, except milk priced under Part 1015 of this chapter, and milk from a plant in the 401 miles and over freight zone, received at a plant from which 50 percent or more of the gross receipts of milk leaves in the form of milk in consumer packages or dispenser inserts and is classified as Class I–A shall be assigned pro rata to all classes of milk receipts at such plant prior to the assignments specified in paragraphs (a) through (g) of this section.

(a) Milk, concentrated fluid milk, fluid milk products, cream, half and half, fluid cream products, and skim milk received from pool plants, pool units, or from producers shall be assigned, as far as possible, to Class I–A, Class II, or to skim milk subject to the fluid skim milk differential. Such assignment shall be subject to the additional requirements set forth in subparagraphs (1) through (6) of this paragraph: *Provided,* That if the plant is listed pursuant to § 1002.14 or designated as a producer-handler plant pursuant to § 1002.15 milk received from other pool plants designated pursuant to § 1002.24 or from other plants which are pool plants pursuant to § 1002.28 on the basis of the assignment (at such other plants) pursuant to subparagraph (1) of this paragraph or from pool units, shall be assigned to Class I–A before the application of subparagraphs (1) and (2) of this paragraph.

(1) If the plant is not a pool plant pursuant to § 1002.24 milk received directly from dairy farmers or units in an amount sufficient to qualify such plant as a pool plant pursuant to paragraph (a) or (b) of § 1002.28 shall be assigned to Class I–A milk leaving the plant which is distributed to outlets which are not other plants: *Provided,* That if such Class I–A milk is not sufficient to qualify such plant as a pool plant pursuant to paragraph (a) or (b) of § 1002.28, or if the handler operating the plant so elects at the time of filing a report pursuant to § 1002.50 no assignment pursuant to this subparagraph shall be made.

(2) After any required assignment pursuant to subparagraph (1) of this paragraph, milk from the following

sources shall be assigned as far as possible to Class I-A:

(i) Milk received from producers delivering to the plant if the plant is designated as a pool plant pursuant to § 1002.24.

(ii) The balance of the milk received from producers if the plant is a pool plant pursuant to § 1002.28 on the basis of the assignment pursuant to subparagraph (1) of this paragraph.

(iii) Milk received from other pool plants designated pursuant to § 1002.24 except as provided in subparagraph (6) of this paragraph.

(iv) Milk received from other plants which are pool plants pursuant to § 1002.28 on the basis of the assignment pursuant to subparagraph (1) of this paragraph at such other plants.

(v) Milk received from declared pool units.

(3) After assignments pursuant to subparagraphs (1) and (2) of this paragraph, milk from other sources shall be assigned to remaining Class I-A at the option of the handler.

(4) Notwithstanding the other provisions of this paragraph, milk received from the plant of a handler at which milk is received from farms which is eliminated from the computation of the handler's net pool obligation pursuant to § 1002.65(g)(1) shall be assigned, as far as possible, to Class III milk at the plant unless such assignment results in nonpool milk being assigned to Class I-A, Class II, or skim milk subject to the fluid skim differential.

(5) Notwithstanding other provisions of this paragraph, milk, cream, or fluid skim milk received (except packaged milk, cream, or fluid skim milk produced in accordance with methods and standards of the American Association of Medical Milk Commissions for the production of certified milk and which is received for marketing as certified milk or milk products), from a handler listed by the market administrator as a producer-handler pursuant to § 1002.15 shall be considered to be nonpool with respect to assignments pursuant to this section: *Provided*, That milk received from a producer-handler who produces milk in accordance with methods and standards of the American Association of Medical Milk Commissions for the production of certified milk and which is not received for marketing as certified milk, shall be treated as milk received from a dairy farmer at the plant and not subject to the provisions of § 1002.65(g).

(6) Milk received at a handler's plant from a dairy farmer who is also a handler listed by the market administrator pursuant to § 1002.14 as receiving own farm milk shall be considered as received first at such dairy farmer's plant and shall be assigned as far as possible to pool milk classified in Class III. Milk received from a dairy farmer who is also a handler but who is not listed by the market administrator pursuant to either § 1002.14 or § 1002.15 shall be considered as having been received from a dairy farmer.

(b) After the assignment prescribed in paragraph (a) of this section, if the plant at which assignment is being made is not a pool plant but is a plant distributing milk in consumer packages to a marketing area defined in another order to the extent necessary to be considered a regulated plant under such other order, or is a plant at which milk received from dairy farmers is classified and priced under another order, milk from pool plants or from pool units shall be assigned to Class I-B if such milk is assigned to Class I by the other order and shall be assigned to Class III if such milk is assigned to other than Class I by such other order.

(c) After the assignments prescribed in paragraph (a) of this section, except at a plant covered by paragraph (b) of this section, all milk received which is classified and priced under Part 1015 of this chapter shall be assigned as far as possible pro rata to the total classification of all milk, except that classified in Class I-B, on hand at or leaving such plant as whole milk.

(d) After the assignments prescribed in paragraphs (a) through (c) of this section, the remaining whole milk received at a plant from producers, from pool units, or from pool plants and in like form from dairy farmers not producers, from nonpool or partial pool units, or from nonpool or partial pool plants shall be assigned pro rata to the total classification of all milk on hand at or leaving such plant as whole milk.

(e) After the assignments prescribed in paragraphs (a) through (d) of this section, the then remaining milk or cream received from producers, from pool units, or from pool plants and the milk or cream received from dairy farmers not producers, from nonpool or partial pool units, or from nonpool or partial pool plants shall be assigned pro rata to the total remaining classification of such products received in like form.

(f) After the assignment of skim milk prescribed in paragraph (a) of this section, skim milk received from nonpool or partial pool plants shall be assigned to the remaining skim milk subject to the fluid skim differential.

(g) Milk from a handler's own farm which is excluded from the computation of the handler's net pool obligation pursuant to § 1002.65(g) shall be prorated to the classification of all milk received from dairy farmers including the handler's own farm milk.

§ 1002.36 Rules and regulations.

The rules and regulations to effectuate the terms and provisions of §§ 1002.30 through 1002.37 shall be made, and may from time to time be amended, by the market administrator in accordance with the procedure set forth in this section: *Provided*, That at any time upon a determination by the Secretary that an emergency exists which requires the immediate adoption of rules and regulations, the market administrator may issue, with the approval of the Secretary, temporary rules and regulations without regard to the following procedure: *Provided further*, That, if any interested person makes written request for the issuance, amendment, or repeal of any rule, the market administrator shall within 30 days either issue notice of meeting pursuant to paragraph (a) of this section or deny such request and except in affirming a prior denial, or where the denial is self-explanatory, shall state the grounds for such denial: *Provided further*, That if the market administrator finds it necessary to promulgate formal rules with respect to units, he shall follow the procedure set forth in this section.

(a) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator at which time all interested persons shall have opportunity to be heard. Notice of such meeting shall be given by the market administrator, and a copy of the proposed rules and regulations shall be sent at least five days prior to the date of the meeting to all handlers operating pool plants. A stenographic record shall be made at all such meetings and such record shall be public information available for inspection at the office of the market administrator.

(b) A period of at least five days after the meeting held pursuant to paragraph (a) of this section shall be allowed for the filing of briefs. Such briefs shall be public information available for inspection at the office of the market administrator.

(c) Not later than 30 days after a meeting held pursuant to paragraph (a) of this section, the market administrator shall issue and send to all handlers operating pool plants the tentative rules and regulations or amendments thereto relating to the issues considered at such meeting, or a tentative notice that no rules or regulations or amendments thereto are to be issued prior to further consideration at another meeting. The tentative rules and regulations, or tentative notice, together with copies of the stenographic record and briefs, shall also at the same time be forwarded by the market administrator to the Secretary.

(d) Not later than 30 days after issuance by the market administrator, the Secretary shall either approve the tentative rules and regulations or tentative notice as issued, or direct the market administrator to reconsider. In which latter event, the market administrator shall within 30 days either issue revised tentative rules and regulations or tentative notice, or call another meeting pursuant to paragraph (a) of this section.

(e) The tentative rules and regulations and amendments thereto or tentative notice issued pursuant to paragraph (c) of this section shall be effective as of the first of the month following approval by the Secretary, but not sooner than ten days after issuance by the market administrator.

§ 1002.37 Classes of utilization.

Subject to all of the conditions set forth in §§ 1002.30 through 1002.36 milk shall be classified at the plant or tank truck at which classification is to be determined as follows:

(a) Class I-A milk shall be all milk, except as provided in paragraph (b) of this section and in subparagraphs (3) and (5) of paragraph (d) of this section, the butterfat from which leaves or is on hand at the plant or tank truck in the

form of milk, concentrated fluid milk, fluid milk products, or as cultured or flavored milk drinks containing 3 percent or more but not more than 5 percent of butterfat, and all milk the classification of which is not established in some other class named in this section.

(b) Class I–B milk shall be all milk, except as provided in subparagraphs (3) and (5) of paragraph (d) of this section, the butterfat from which leaves the plant or tank truck in the form of milk, concentrated fluid milk, fluid milk products, or of cultured or flavored milk drinks containing 3 percent or more but not more than 5 percent of butterfat, and which is delivered to a plant or a purchaser outside the marketing area and remains outside the marketing area.

(c) Class II milk shall be all milk the butterfat from which leaves or is on hand at the plant in the form of cream, sweet or sour, half and half, fluid cream products, or in the form of cultured or flavored milk drinks containing less than 3 percent or more than 5 percent of butterfat, unless such cream, half and half, fluid cream products, or cultured or flavored milk drinks are established to have been so handled or marketed as to classify such milk in some other class named in this section.

(d) Class III milk shall be all milk which meets the conditions set forth in any one of the following subparagraphs:

(1) All milk the butterfat from which leaves or is on hand at the plant in the form of cultured or flavored milk drinks containing less than 3 percent or more than 5 percent of butterfat or in the form of cream, half and half, or fluid cream products which cream, half and half, fluid cream products, or cultured or flavored milk drinks is delivered to a plant or a purchaser outside the New York metropolitan district and remains outside the New York metropolitan district.

(2) All milk the butterfat from which leaves or is on hand at the plant in the form of cream which is subsequently held in a licensed cold storage warehouse for at least 28 days, and which is subject at all times until utilization of such cream to being inspected by a representative of the market administrator to determine the physical presence of the cream. After the first seven days, such cream may be moved from one licensed cold storage warehouse to another: *Provided,* That the market administrator receives notice of such removal within seven days thereafter. Any handler whose report claimed the original classification of milk pursuant to this subparagraph shall be liable under the provisions of § 1002.80 for the difference between the Class II and Class III prices for the month in which the Class III classification was claimed on any such milk if the storage of cream does not comply with all requirements of this subparagraph.

(3) All milk the butterfat from which leaves the plant in the form of products named in paragraph (a), (b) or (c) of this section if such products have been sterilized and leave the plant in hermetically sealed containers.

(4) All milk the butterfat from which leaves the plant or tank truck in the form of milk which is delivered in bulk to an establishment (other than a plant as defined in § 1002.8) at which food products are processed and packed in hermetically sealed containers and at which establishment there is no disposition of milk or milk products specified in paragraph (a), (b), or (c) of this section other than milk or milk products received in consumer packages for consumption on the premises.

(5) All milk the butterfat from which leaves or is on hand at the plant in the form of concentrated fluid milk which is established not to have been packaged in consumer packages either before or after leaving the plant.

(6) All milk the butterfat from which leaves or is on hand at the plant in the form of some product the classification of which is not established in some other class named in this section.

MINIMUM PRICES

§ 1002.40 Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section, subject to the differentials and adjustments in §§ 1002.41 through 1002.43. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler but which does not operate the plant or the unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.41 through 1002.43 and § 1002.71(c) applicable at the location where the milk is received from producers. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler and which operates the plant or the unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.41 through 1002.44 and § 1002.71(c) applicable at the plant at which the milk is first received.

(a) For Class I–A milk the price during each month shall be a price computed pursuant to subparagraphs (1) through (11) of this paragraph.

(1) Divide (with the result expressed to three decimal places) the monthly wholesale price index for all commodities in the second preceding month as reported by the Bureau of Labor Statistics, United States Department of Labor, by the average of the monthly indexes reported on the same base for the year 1955.

(2) Multiply the base price of $5.20 by the result determined pursuant to subparagraph (1) of this paragraph. Express the result to the nearest cent.

(3) For each month during the three-year period ending with the second preceding month, calculate to one decimal place the percentage that the total volume of milk in Class I–A and Class I–B was of the total volume of reported receipts of pool (these percentages to be referred to as utilization percentages): *Provided,* That the utilization percentage for the month of October 1961 used in making such computations shall be 54.6 and the utilization percentage for the month of November 1961 shall be the percentage as computed pursuant to this paragraph plus 2.8.

(4) Calculate the average of the 36 monthly utilization percentages for the three-year period ending with the second preceding month.

(5) Calculate the average of the six utilization percentages for the second and third preceding months and for the same months of the two preceding years.

(6) Divide the result determined pursuant to subparagraph (5) of this paragraph by the result determined pursuant to subparagraph (4) of this paragraph expressing the result to three decimal places.

(7) Calculate the average of the two utilization percentages in the second and third preceding months.

(8) Divide the result determined pursuant to subparagraph (7) of this paragraph by the result determined pursuant to subparagraph (6) of this paragraph. Express the result to one decimal place and add 100.

(9) Calculate a utilization adjustment percentage by subtracting the base utilization percentage of 56.2 from the result determined pursuant to subparagraph (8) of this paragraph.

(10) Multiply the result determined pursuant to subparagraph (2) of this paragraph by the utilization adjustment percentage determined pursuant to subparagraph (9) of this paragraph.

(11) Multiply the result determined pursuant to subparagraph (10) of this paragraph by the following seasonal adjustment factor for the month for which the Class I–A price is being determined:

January	1.05	July	0.95
February	1.03	August	1.00
March	1.00	September	1.04
April	.94	October	1.07
May	.88	November	1.09
June	.88	December	1.07

(b) Whenever any of the following conditions exist for three consecutive months, the Secretary shall call a public hearing promptly to consider those and other economic conditions, or promptly announce his determination that such a hearing should not be held, together with reasons for such determination:

(1) There is a difference of more than six points for each of three consecutive months between the index of the cost of production announced pursuant to § 1002.47(a)(6) and the index of wholesale prices (1955 base) announced pursuant to § 1002.47(a)(1).

(2) There is a difference of more than 15 points for each of three consecutive months between the index of the cost of

production announced pursuant to § 1002.47(a)(6) and the index of the Class I-A price announced pursuant to § 1002.47(a)(7).

(3) The Class I-A price for each of three consecutive months is less than $1 higher than the condensery price announced pursuant to § 1002.47(b)(6) for such months or more than $2.50 higher than such condensery price.

(c) For Class I-B milk the price shall be the price for Class I-A milk.

(d) For Class II milk the price during each month shall be the sum of the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1)

U.S. Grade A or U.S. 92-score butter, wholesale, at New York, average price announced pursuant to § 1002.46 (a) (4) for the period ending on the 24th of the preceding month	Class II price	
	March through July (dollars per hundredweight)	August through February (dollars per hundredweight)
Cents per pound		
Under 21.5	1.35	1.50
21.5 or over, but under 25.0	1.50	1.65
25.0 or over, but under 28.5	1.65	1.80
28.5 or over, but under 32.0	1.80	1.95
32.0 or over, but under 35.5	1.95	2.10
35.5 or over, but under 39.0	2.10	2.25
39.0 or over, but under 42.5	2.25	2.40
42.5 or over, but under 46.0	2.40	2.55
46.0 or over, but under 49.5	2.55	2.70
49.5 or over, but under 53.0	2.70	2.85
53.0 or over, but under 56.5	2.85	3.00
56.5 or over, but under 60.0	3.00	3.15
60.0 or over, but under 63.5	3.15	3.30
63.5 or over, but under 67.0	3.30	3.45
67.0 or over, but under 70.5	3.45	3.60
70.5 or over, but under 74.0	3.60	3.75
74.0 or over, but under 77.5	3.75	3.90
77.5 or over, but under 81.0	3.90	4.05

Should the average butter price set forth above be 81 cents or more, the Class II price shall be the price which would result from further extension of this table at the same rate to cover such average butter price.

(2) Multiply by 7.5 the average of all the hot roller process dry skim milk or nonfat dry milk solids quotations for "other brands, human consumption, carlots, bags, or barrels" (using midpoint of any range as one quotation), published for the delivery period in "The Producers' Price-Current," and subtract 48 cents.

(e) For Class III milk, the price shall be the net amount determined pursuant to this paragraph:

(1) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of one percent of average butterfat content above 3.5 percent, or adding for each one-tenth of one percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month	Amount (cents)	Month	Amount (cents)
January	+0.08	July	+0.08
February	+.07	August	+.15
March	0	September	+.11
April	−.04	October	+.11
May	−.07	November	+.11
June	−.06	December	+.11

§ 1002.41 Butterfat differentials.

The minimum price for Class I-A and Class I-B milk shall be plus or minus four cents for each one-tenth of one percent of butterfat therein above or below 3.5 percent. The minimum price for Class II milk shall be plus or minus, for each one-tenth of one percent of butterfat therein above or below 3.5 percent. An amount computed as follows: subtract from the respective class prices an amount computed pursuant to § 1002.40 (d)(2) and divide by 35. The minimum price for Class III milk shall be plus or minus, for each one-tenth of one percent of butterfat therein above or below 3.5 percent, an amount computed as follows: Multiply by 0.120 and round to the nearest one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

§ 1002.42 Transportation differentials.

The class prices set forth in § 1002.40 and the fluid skim differential set forth in § 1002.43 shall be subject to a transportation differential determined in accordance with paragraphs (a) through (d) of this section.

(a) The market administrator shall determine a freight zone for each pool plant, each partial pool plant, or for each plant at which milk products subject to the provisions of § 1002.84 is first found. Such freight zone shall be the shortest highway mileage from the plant to the nearest of the following points as computed by the market administrator from data contained in Mileage Guide No. 5, without supplements, issued on July 20, 1949, effective August 21, 1949, by the Household Goods Carriers' Bureau, Agent, Washington, D.C.: Mount Vernon or Yonkers in the State of New York; Tenafly, Glen Ridge, East Orange, Elizabeth, Hackensack, Hillside, Irvington, or Passaic in the State of New Jersey. The freight zone for plants located in New York City, Nassau, and Suffolk Counties in the State of New York, or in Essex, Hudson, and Union Counties in the State of New Jersey shall be in the 1-10 mile zone. The market administrator shall publicly announce the freight zones for pool plants.

(b) The market administrator shall determine and publicly announce a freight zone for each minor civil division (township, borough, incorporated village, or city) within the nearby differential area or in which farms included in a pool or partial pool unit are located by computing the shortest highway mileage distance from the nearest point in the minor civil division to the nearest point specified in paragraph (a) of this section, using the mileage guide specified in such paragraph supplemented by United States Geological Survey maps. In States where the smallest governmental unit except for incorporated cities or villages is the county, a zone for the county shall be determined in the same manner as for minor civil divisions. The zone for each farm shall be the zone of the minor civil division or county in which the farm is located.

(c) The differential rates applicable at plants shall be as set forth in the following schedule:

A	B	C
Freight zone—Miles	Classes I-A, I-B, and skim milk subject to the fluid skim differential	Classes II and III
	Cents per hundredweight	*Cents per hundredweight*
1-10	+24.0	+8
11-20	+22.8	+8
21-25	+21.6	+8
26-30	+21.6	+7
31-40	+20.4	+7
41-50	+19.2	+7
51-60	+18.0	+6
61-70	+16.8	+6
71-75	+15.6	+6
76-80	+15.6	+5
81-90	+14.4	+5
91-100	+13.2	+5
101-110	+12.0	+4
111-120	+10.8	+4
121-125	+9.6	+4
126-130	+9.6	+3
131-140	+8.4	+3
141-150	+7.2	+3
151-160	+6.0	+2
161-170	+4.8	+2
171-175	+3.6	+2
176-180	+3.6	+1
181-190	+2.4	+1
191-200	+1.2	+1
201-210	0.0	0
211-220	−1.2	0
221-225	−2.4	0
226-230	−2.4	−1
231-240	−3.6	−1
241-250	−4.8	−1
251-260	−6.0	−2
261-270	−7.2	−2
271-275	−8.4	−2
276-280	−8.4	−3
281-290	−9.6	−3
291-300	−10.8	−3
301-310	−12.0	−4
311-320	−13.2	−4
321-325	−14.4	−4
326-330	−14.4	−5
331-340	−15.6	−5
341-350	−16.8	−5
351-360	−18.0	−6
361-370	−19.2	−6
371-375	−20.4	−6
376-380	−20.4	−7
381-390	−21.6	−7
391-400	−22.8	−7
401 and over	−24.0	−8

(d) The differential rate applicable to each pool unit or partial pool unit shall be computed each month as follows: multiply the volume of pool milk received from farms in each zone by the rate for that zone as set forth in the schedule in paragraph (c) of this section, add the resulting values for all zones of the unit, divide such sum by the total volume of milk received by the unit and round to the nearest 0.1 cent.

Rates shall be computed separately for columns B and C of such schedule.

(e) In the event that a plant in the 401 miles and over freight zone becomes a pool plant, a ten mile zone shall be determined for such plant and for each farm in any pool unit delivering to such plant. The column B differentials in paragraph (c) of this section shall be extended at the same rate as provided in such column for such plant or unit: *Provided,* That in no case shall such differential cause the class price or the uniform price for such plant or unit to be less than the Class III price for such plant or unit: *Provided further,* That farms of units delivering to such plant shall be deemed to be in the same zone as the plant.

§ 1002.43 Fluid skim differential.

The handler shall pay a fluid skim differential per hundredweight for skim milk, other than that derived from Class I–A or Class I–B milk subject to the pricing provisions of § 1002.40 (a) or (c) or of another order except that classified as Class II under Part 1015 of this chapter, which is disposed of to outlets in the marketing area, which skim milk leaves or is on hand at the plant in the form of: milk, fluid skim milk in consumer packages or in dispenser inserts, half and half, cultured milk drinks containing 3 percent or more but not more than 5 percent butterfat, and fluid skim milk in bulk delivered to any such outlet which is engaged in the marketing or packaging of bulk fluid skim milk and for all skim milk which is not established to have been otherwise utilized or disposed of. Such fluid skim differential shall be computed as follows: deduct the price of Class II milk computed pursuant to § 1002.40(d) from the price for Class I–A milk computed pursuant to § 1002.40 (a), and divide by 0.9125: *Provided,* That with respect to skim milk so utilized or disposed of in half and half, this differential shall apply only to that quantity of skim milk in excess of 4.5 times the quantity of butterfat in such half and half.

§ 1002.44 Connecticut order differential.

For milk subject to the classification and pricing provisions of Part 1015 of this chapter which milk is received at a pool plant or a plant distributing milk, fluid milk products, concentrated fluid milk, cultured or flavored milk drinks, cream, half and half, fluid cream products, or fluid skim milk in the marketing area which plant is not a regulated plant under Part 1015 of this chapter, each handler shall pay a differential for milk classified as Class I–A or Class II equal to the difference between the Class II price under Part 1015 of this chapter and the appropriate class price as adjusted for appropriate differentials including the direct delivery differential set forth in § 1002.71(c). If the skim milk of such milk is assigned to skim milk subject to the fluid skim differential this differential shall be the same as the fluid skim differential pursuant to § 1002.43. In the event that such milk is received at more than one plant, the obligation shall fall upon the operator of the first pool plant where received, or if not received in a pool plant, by the operator of the first plant in the marketing area where first received, or if not received in such a plant, by the operator of the plant where the Class I–A or Class II classification was established.

§ 1002.45 Producer-handler price differential.

For milk received from a handler who is designated a producer-handler under this part or who meets the requirements of a producer-handler under another order, which milk is assigned to Class I–A or Class I–B each handler shall pay a differential equal to the difference between the Class I–A price and the Class III price adjusted for appropriate differentials for butterfat and the location of such handler's plant; and for skim milk received or derived from milk of such producer-handler which is assigned to skim milk subject to the fluid skim differential each handler shall pay a differential equal to the fluid skim differential pursuant to § 1002.43.

§ 1002.46 Use of equivalent price or index.

If for any reason a price or index specified in §§ 1002.40 through 1002.47 for use in computing and announcing class prices or for any other purpose is not reported or published in the manner therein described, the market administrator shall use a price or index determined by the Secretary to be equivalent to or comparable with the price or index specified.

§ 1002.47 Announcement of prices.

The market administrator shall publicly announce the following:

(a) Not later than the 25th day of each month, or the next succeeding workday in any month in which the 25th day is a Sunday or holiday:

(1) The monthly wholesale price index for all commodities in the preceding month as reported by the Bureau of Labor Statistics, United States Department of Labor, and the resulting index determined pursuant to § 1002.40(a)(1) multiplied by 100.

(2) The utilization adjustment percentage computed pursuant to § 1002.40 (a) for the following month.

(3) The preliminary Class I–A price computed pursuant to § 1002.40(a) for the following month.

(4) The average, for the period beginning with the 25th of the immediately preceding month and ending with the 24th of the current month of the highest prices reported daily by the United States Department of Agriculture for U.S. Grade A or U.S. 92-score butter at wholesale in the New York market.

(5) The preliminary calculation for the following month pursuant to § 1002.40(d)(1).

(6) The index of the cost of production for the preceding month computed by the market administrator as follows:

The index of the cost of production computed by the New York State College of Agriculture at Cornell University (1910–14 base) converted to a 1955 base.

(7) The index computed by dividing the Class I–A formula price prior to the seasonal adjustment, for the following month by $5.20.

(8) The utilization percentage for the month one year earlier than the succeeding month.

(9) Other statistics relating to economic conditions affecting the market supply and demand for milk.

(b) Not later than the 5th day of each month, or the next succeeding workday in any month in which the 5th day is a Sunday or holiday, for the preceding month or such other period specified.

(1) The minimum class prices pursuant to § 1002.40.

(2) The butterfat differentials pursuant to § 1002.41.

(3) The fluid skim differential pursuant to § 1002.43.

(4) The simple average of the daily wholesale selling price per pound (using the midpoint of any price range as one price) reported by the United States Department of Agriculture for Grade A or 92-score bulk creamery butter in New York City for the period between the 16th day of the second preceding month and the 15th day, inclusive of the preceding month.

(5) The average of prices (using the midpoint of any range as one quotation) reported daily in "The Producers' Price-Current" for hot roller process dry skim milk or nonfat dry milk solids "other brands, human consumption, carlots, bags, or barrels".

(6) The average of prices paid in the preceding month by midwestern condenseries as reported by the United States Department of Agriculture.

(7) The nearby differential rate for the preceding month determined pursuant to § 1002.71(b).

(8) The average price for milk for manufacturing purposes, f.o.b. plants United States, as reported by the United States Department of Agriculture.

REPORTS OF HANDLERS

§ 1002.50 Monthly reports.

Each handler except a handler receiving own farm milk and not required to be listed pursuant either to § 1002.14 or § 1002.15 shall report each month to the market administrator for the preceding month in the manner and on the forms prescribed by the market administrator, with respect to milk or milk products received at each of his pool plants or partial pool plants, at each of his pool units or partial pool units, and at each of his plants where milk or milk products subject to payments under § 1002.84 were handled, the information set forth in paragraphs (a) through (e) of this section. Such report, if transmitted by mail, shall bear a postmark no later than the 8th day of the month, and if not so mailed, shall be delivered physically to the office of the market administrator no later than the close of business on the 10th day of the month, except that the report of a pool plant which receives milk from units but not direct from producers shall be submitted at a time specified by the market administrator.

(a) The total quantity of milk and of each milk product with the average butterfat content thereof, received from

dairy farmers, from units, from other plants, from such handler's own farm, from other handlers, and from other sources;

(b) The total quantity of milk and of each milk product moved out of, or on hand at, such plant or unit, the average butterfat content thereof, and the destination of any milk or milk product, the classification of which wholly or partially depends upon its destination, moved out of such plant or unit;

(c) The disposition of milk or milk products at each other plant at which the disposition of any milk or milk products is claimed as the basis of classification;

(d) The computation pursuant to § 1002.65 of such handler's net pool obligation; and

(e) The computation of the amount of any payments pursuant to § 1002.84.

§ 1002.51 Producer payroll reports.

Each handler shall report with respect to producers as set forth in paragraphs (a) and (b) of this section.

(a) On or before the 10th day after the end of each month, the information required by the market administrator with respect to producer additions, producer withdrawals, and changes in names of farm operators; and

(b) On or before the last day of each month, such handler's producer payroll for the preceding month, which shall show for each producer:

(1) The total delivery of milk with the average butterfat test thereof: *Provided*, That, if no butterfat tests are made on any of the milk received from producers, and if such milk is received by the handler from no more than 10 producers, 3.5 percent shall be reported as the average butterfat test of milk received from producers,

(2) The amount of payment due each producer,

(3) Any deductions and charges made by the handler,

(4) The net amount of payment to such producer made pursuant to §§ 1002.70 through 1002.72, and

(5) Such other information with respect thereto as the market administrator may require.

§ 1002.52 Storage cream reports.

(a) On or before the last day of the period for establishing classification pursuant to § 1002.32, or, if earlier, not later than 15 days prior to the date of final removal of the cream from storage, each handler who separates milk the cream from which is stored as a basis for Class III classification pursuant to § 1002.37(d)(2) shall report to the market administrator on forms prescribed by the market administrator information with respect to the storage of cream. Failure to make such report shall result in the disallowance of Class III classification pursuant to § 1002.37(d)(2).

(b) The handler who made such reports shall report to the market administrator, not later than the end of the second month following the month during which frozen cream is utilized, information with respect to the utilization of such cream.

(c) With respect to notices of transfer of cream filed pursuant to § 1002.37(d)(2) and with respect to storage cream reports filed pursuant to this section, a receipt form acknowledging receipt of such notice or report shall be mailed by the market administrator to the handler within 48 hours after such notice or report is received by the market administrator.

§ 1002.53 Other reports.

At such time as the market administrator may request, each handler shall report to the market administrator in the manner and on forms prescribed by the market administrator:

(a) The total quantity of milk and of each milk product received at his nonpool plants, with the average butterfat content thereof, from dairy farmers, from other plants or nonpool units, from such handler's own farm, from other handlers, and from other sources;

(b) The total quantity of milk and of each milk product moved out of, or on hand at, his nonpool plants, the average butterfat content thereof, and the destination of any milk or milk product moved out of such plants;

(c) Information concerning land, buildings, surroundings, facilities, and equipment at any of his plants;

(d) The current receipts and utilization of milk at each of his pool plants and pool units; and

(e) Such other information as may be necessary for the administration of the provisions of this part.

§ 1002.54 Verification of reports and payments.

The market administrator shall promptly verify all reports and payments of each handler by audit of such handler's records and of the records of any handler or person upon whose disposition of milk such handler claims classification, and each such handler shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities, of his own or other persons, as will enable the market administrator to:

(a) Verify the receipts and disposition of all milk required to be reported pursuant to §§ 1002.50 through 1002.53, and, in case of errors or omissions, ascertain the correct figures;

(b) Weigh, sample, and test for butterfat content the milk received from producers and any product of milk upon which classification depends;

(c) Verify the payments to producers prescribed in §§ 1002.70 through 1002.72;

(d) Verify all claims for payments pursuant to §§ 1002.81 and 1002.82;

(e) Make inspection of buildings and their surroundings, facilities, and equipment for verification purposes and to ascertain what constitutes a plant and the production, processing, and distribution resources and facilities of a producer-handler's operation;

(f) Verify that the requirements for designation as a producer-handler have been and are being met; and

(g) Verify all other information required by this part to be reported.

§ 1002.55 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

DETERMINATION OF UNIFORM PRICE

§ 1002.65 Net pool obligation of handlers.

The handler's net pool obligation shall be computed pursuant to paragraphs (a) through (f) of this section: *Provided*, That milk specified in paragraph (g) of this section shall be eliminated from this computation and such milk shall be deemed not to be included in the phrase "pool milk" as such phrase is used in this section and in §§ 1002.66, 1002.79, 1002.81, 1002.82, and 1002.90.

(a) Determine the classification pursuant to §§ 1002.30 through 1002.37 of pool milk received from dairy farmers at each plant or unit;

(b) Subject to adjustment for appropriate differentials pursuant to §§ 1002.41 and 1002.42, multiply the milk in each class by the class price, multiply the skim milk subject to the fluid skim differential by the fluid skim differential, multiply the milk subject to the Connecticut order differential by the appropriate differential, and add together the resulting values;

(c) Deduct, in the case of each plant or unit where the average butterfat content of all pool milk received from dairy farmers is in excess of 3.5 percent, and add, in the case of each plant or unit where the butterfat content of all pool milk received from dairy farmers is less than 3.5 percent, the total value of the butterfat differential applicable pursuant to § 1002.72;

(d) Deduct, in the case of each plant or unit nearer than the 201–210 mile zone, and add, in the case of each plant or unit farther than the 201–210 mile zone, the sum obtained by multiplying the pool milk received from dairy farmers at plants by the zone differential set forth in column B of the schedule in § 1002.42(c) applicable at the plant, and for milk in units by the weighted average column B differential computed pursuant to § 1002.42(d) applicable to the unit;

(e) Deduct the total value of the nearby differential to be paid for pool milk pursuant to § 1002.71(b). The

computation to this point shall be known as the handler's net pool obligation; and

(f) Add together the handler's net pool obligation for all plants and units.

(g) Milk specified in subparagraphs (1) through (4) of this paragraph shall be excluded from the computation of the handler's net pool obligation pursuant to this section.

(1) Milk received from farms in Nassau and Suffolk Counties in New York, which farms are not approved for sale of milk in New York City, and milk received from farms in New York City.

(2) Own farm milk not in excess of an average of 800 pounds per day if the handler is not a producer-handler designated pursuant to § 1002.15 and if the volume of milk, other than own farm milk, handled does not exceed an average of 1,600 pounds per day.

(3) All milk handled by a producer-handler designated pursuant to § 1002.15 which is derived from such producer-handler's production resources and facilities.

(4) Own farm milk of a charitable, religious, educational, or governmental institution which is not engaged in the practice of receiving bulk milk from other sources for processing or packaging and is not engaged in the practice of selling packaged milk to persons not associated with such institution.

§ 1002.66 Computation of the uniform price.

The market administrator shall, on or before the 14th day of each month, audit for mathematical correctness and obvious errors the report submitted for the preceding month by each handler. If the unreserved cash balance in the producer settlement fund to be included in the computation is less than two cents per hundredweight of pool milk on all reports, the report of any handler who has not made payment of the last monthly pool debit account rendered pursuant to § 1002.76 shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until he has made full payment of outstanding monthly pool debits. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(a) Combine into one total the net pool obligations of all handlers;

(b) Subtract the total of payments required to be made for such month by § 1002.81;

(c) Add the total payments required to be made by handlers for such month pursuant to § 1002.84;

(d) Add the amount of unreserved cash in the producer settlement fund;

(e) Subtract an amount equal to not less than eight cents nor more than nine cents per hundredweight of pool milk to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers; and

(f) Divide the result obtained in paragraph (e) by the total pounds of pool milk delivered by dairy farmers. The result shall be known as the uniform price.

§ 1002.67 Announcement of uniform price and weighted average butterfat differential.

The market administrator shall announce, not later than the 15th day of each month, the uniform price computed pursuant to § 1002.66 and, not later than the 5th day of each month, the weighted average butterfat differential pursuant to § 1002.72, except that in any month in which the specified date is a Sunday or holiday, such announcements shall be not later than the next succeeding workday.

PAYMENT BY HANDLERS DIRECTLY TO PRODUCERS

§ 1002.70 Time and rate of payments.

On or before the 25th day of each month each handler shall make payment to each producer for all pool milk delivered by such producer during the preceding month at not less than the uniform price subject to appropriate differentials set forth in §§ 1002.71 and 1002.72: *Provided,* That each handler which is also a cooperative marketing association determined by the Secretary to be qualified under the Capper-Volstead Act may, with respect to producers who are members of and under contract with such association, make distribution, in accordance with the contract between the association and such members, of the net proceeds of all its sales in all markets in all use classifications. Whenever verification by the market administrator of the payment to any producer or cooperative association of producers for milk delivered to any handler discloses payment of less than is required by this part, the handler shall make up such payment to the producer or cooperative association of producers not later than the time of making payment next following such disclosure: *Provided further,* That for milk received in a bulk tank unit there may be no charge to the producer for service incident to moving the milk off the farm if such charge reduces the net price to the farmer below that specified in this section: *Provided further,* That, if a handler claims that he cannot make the required payment because the producer is deceased or cannot be located or because the cooperative association or its lawful successor or assignee is no longer in existence, such payment shall be made to the producer settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make such payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be: *Provided further,* That, if, not later than the date when such payment is required to be made, legal proceedings have been instituted by the handler for the purpose of administrative or judicial review of the market administrator's findings upon verification as provided above, such payment shall be made to the producer settlement fund and shall be held in reserve until such time as the above-mentioned proceedings have been completed, or until the handler submits proof to the market administrator that the required payment has been made to the producer or association of producers in which latter event the payment shall be refunded to the handler.

§ 1002.71 Location differentials.

The uniform price shall be subject to the appropriate location differentials set forth below:

(a) The transportation differential shall be plus or minus the appropriate differential shown in column B of the schedule in § 1002.42(c) for the zone of the plant to which the milk is delivered or, in the case of units, the zone of the farm at which the milk is received.

(b) The nearby differential shall be computed pursuant to the provisions of subparagraphs (1) through (6) of this paragraph.

(1) A zone for each farm within the nearby differential area shall be computed as specified in § 1002.42(b): *Provided,* That all farms located in the State of New Jersey shall be considered to be in the 1–50 mile zone.

(2) The weighted average percentage of pool milk utilized in Classes I–A and I–B for the 12-month period ending with the preceding month shall be computed.

(3) The rates of nearby differentials, except as provided in subparagraphs (4), (5), and (6) of this paragraph, shall be set forth in the following table:

Mileage zone of the farm pursuant to subparagraph (1) of this paragraph	Percentage utilization in Classes I–A and I–B as computed pursuant to subparagraph (2) of this paragraph								
	Under 45	45 and over, but under 50	50 and over, but under 55	55 and over, but under 60	60 and over, but under 65	65 and over, but under 70	70 and over, but under 75	75 and over, but under 80	80 and over
	Dollars per hundredweight								
1–50	0.64	0.56	0.48	0.40	0.32	0.24	0.16	0.08	0
51–60	.56	.49	.42	.35	.28	.21	.14	.07	0
61–70	.48	.42	.36	.30	.24	.18	.12	.06	0
71–80	.40	.35	.30	.25	.20	.15	.10	.05	0
81–90	.32	.28	.24	.20	.16	.12	.08	.04	0
91–100	.24	.21	.18	.15	.12	.09	.06	.03	0
101–110	.16	.14	.12	.10	.08	.06	.04	.02	0
111–120	.08	.07	.06	.05	.04	.03	.02	.01	0

(4) For farms located in Columbia, Rensselaer, or Albany counties, or the townships of Catskill, Athens, Coxsackie, New Baltimore, Greenville, Cairo, or Durham in Greene County, the rate shall be as follows: for farms in the 91–120 mile zone, the rate otherwise applicable for farms in the 91–100 mile zone; for farms in the 121–130 mile zone, the rate otherwise applicable for farms in the 101–110

mile zone; and for farms in the 131–140 mile zone, the rate otherwise applicable for farms in the 111–120 mile zone.

(5) Farms delivering to plants in Columbia, Rensselaer, Schenectady, or Albany counties, or the townships of Catskill, Athens, Coxsackie, New Baltimore, Greenville, Cairo, or Durham in Greene County beyond the 141–150 mile zone, and farms delivering to plants located in any other territory beyond the 131–140 mile zone shall not be eligible for the differentials set forth in this paragraph.

(6) The nearby differential rates shall be reduced 10 percent for each full percentage point by which the quantity of milk subject to the differential in the preceding 12 months exceeds 35 percent of the total quantity of Class I–A milk (both pool and nonpool) in such 12 months: *Provided,* That for the period July 1, 1962, to the effective date of this proviso, the report of receipts from producers or units at plants which distributed milk in the marketing area in June 1962 but elected not to be pooled in such month pursuant to the provisions of § 1002.29(d) as then in effect, shall not be used in making this computation.

(c) *Direct delivery differentials.* For pool milk received from farms, and from cooperative associations pursuant to paragraphs (a)(2) and (a)(3) of § 1002.25, at plants located in the areas specified in the following table, the handler shall pay, in addition to that required by other provisions of this section, the amounts set forth below:

Mileage zone computed pursuant to § 1002.42, or county—City or township	*Rate—dollars per hundredweight*
1–10 mile zone	0.25
11–30 mile zone	.20
31–50 mile zone	.15
51–70 mile zone	.10
71–80 mile zone	.05
Albany:	
Albany	.10
Colonie	.10
Watervliet	.10
Green Island	.10
Cohoes	.10
Guilderland	.05
New Scotland	.05
Bethlehem	.05
Coeymans	.05
Schnectady:	
Schnectady	.10
Glenville	.05
Niskayuna	.05
Rotterdam	.05
Montgomery:	
Amsterdam (city)	.05
Amsterdam (township)	.05
Saratoga:	
Waterford	.10
Rensselaer:	
Troy	.10
Rensselaer	.10
Brunswick	.05
N. Greenbush	.05
Schodack	.05
E. Greenbush	.05
Onondaga:	
Syracuse	.05
Manlius	.05
DeWitt	.05
Onondaga	.05
Camillus	.05
Solvay	.05
Geddes	.05
Salina	.05

§ 1002.72 Butterfat differential.

The uniform price shall be plus or minus, as the case may be, for each one-tenth of one percent above or below 3.5 percent of average butterfat content of milk pool delivered by any dairy farmer during any month, an amount equivalent to the average of the butterfat differentials determined pursuant to § 1002.41, for each class weighted by the pounds of butterfat in the milk in each such class used in the computation of the uniform price for the preceding month. Such differential shall be computed to the nearest even tenth of a cent.

PRODUCER SETTLEMENT FUND AND ITS OPERATION

§ 1002.75 Producer settlement fund.

The market administrator shall establish and maintain a separate fund known as "the producer settlement fund" into which he shall deposit all payments and out of which he shall make all payments pursuant to §§ 1002.77 through 1002.84.

§ 1002.76 Handler's accounts.

The market administrator shall establish an account for each handler who is required to make payments to the producer settlement fund or who received payments from the producer settlement fund. After computing the uniform price and each handler's pool debit or credit each month, and at such times as he deems appropriate, the market administrator shall render each handler a statement of his account showing the debit or credit balance, together with all debits or credits entered on such handler's account since the previous statement was rendered: *Provided,* That the handler operating a plant not in the 401 miles and over freight zone receiving milk from a partial pool plant in the 401 miles and over freight zone shall be responsible for the debit or credit arising on milk so received and for the payment of the administration assessment pursuant to § 1002.90 on such milk.

1002.77 Payment to the producer settlement fund.

On or before the 18th day of each month each handler shall make full payment of the debit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.76.

§ 1002.78 Payments out of producer settlement fund.

On or before the 20th day of each month the market administrator shall make payment to each handler of the credit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.76. If, at any such time, the balance in the producer settlement fund is insufficient to make full payment due to each handler, the market administrator shall reduce uniformly the payments to each handler and shall complete such payments as soon as the necessary funds are available. No handler who, on the 25th day of the month, has not received such payments in full from the market administrator shall be deemed to be in violation of §§ 1002.70 through 1002.72 if he reduces his total payments to producers for milk delivered by such producers during the preceding month by not more than the amount of the reduction in payment from the producer settlement fund.

§ 1002.79 Handler's pool debit or credit.

After computing the uniform price for each month, the market administrator shall compute each handler's pool debit or pool credit as follows:

(a) Multiply the quantity of pool milk received by each handler from dairy farmers by the uniform price.

(b) If the result obtained in paragraph (a) of this section is less than the handler's net pool obligation, the difference shall be entered on the handler's producer settlement fund account as such handler's pool debit.

(c) If the result obtained in paragraph (a) of the this section is greater than the handler's net pool obligation, the difference shall be entered on the handler's producer settlement fund account as such handler's pool credit.

§ 1002.80 Adjustments of errors in payments.

Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer settlement fund, the market administrator shall debit the handler's producer settlement fund account for any unpaid amount. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall credit the handler's producer settlement fund account for any such amount.

§ 1002.81 Cooperative payments for marketwide services.

Payments shall be made to qualified cooperatives or to federations under the conditions, in the manner, and at the rates set forth in this section.

(a) *Definitions.* As used in this section the following terms shall have the following meanings:

(1) "Cooperative" means a cooperative association of producers which is duly incorporated under the cooperative corporation laws of a state; is qualified under the Capper-Volstead Act (7 U.S.C. 291 et seq.); has all its activities under the control of its members; and has full authority in the sale of its members' milk.

(2) "Federation" means a federation of cooperatives.

(3) "Federated cooperative" means a cooperative which is a member of a federation and on whose membership the federation is an applicant for or receives payments under subparagraph (2) of paragraph (f) of this section.

(4) "Member" means, when used with respect to a member of a cooperative or of a federated cooperative, only a member who is also a producer, as defined in § 1002.6.

(b) *Qualified cooperatives and federations.* A cooperative or federation may submit an application to the market administrator for payments under the provisions of this section. In accordance

with the requirements of the rules and regulations issued by the market administrator, any such application shall include a written description of the applicant's program for the performance of marketwide services, including evidence that adequate facilities and personnel will be maintained by it so as to enable it to perform the marketwide services; and the application shall contain a statement by the applicant that it will perform the required marketwide services for which it is applying for payments. The application shall set forth all necessary data so as to enable the market administrator to determine whether it meets the qualification requirements with respect to the payments for which the application is submitted. An application shall be approved by the market administrator only if he determines that:

(1) In the case of a cooperative:

(i) It has not less than 4,000 members and receives from its members not less than one cent per hundredweight of milk delivered by them: *Provided,* That no person shall be counted in this respect as a member if he is a member of another cooperative which is an applicant for or which receives cooperative payments, or if he is a member of a federated cooperative.

(ii) If the application is also for an additional payment under subparagraph (3) of paragraph (f) of this section, it has not less than 6,000 members and receives from its members not less than one cent per hundredweight of milk delivered by them, subject to the proviso in subdivision (i) of this subparagraph.

(iii) If the application is also for an additional payment under subparagraph (4) of paragraph (f) of this section, the cooperative is an operating cooperative which operates marketing facilities, i.e., pool plant(s), at which it receives at least 25 per centum, by weight, of the pool milk marketed by its members: *Provided,* That in determining whether the 25 per centum minimum requirement is complied with, there shall be excluded the milk delivered by a member of the cooperative who is a member of another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk.

(2) In the case of a federation:

(i) It is duly incorporated under the laws of a state.

(ii) It has contracts with each of its federated cooperatives under which the cooperatives agree to remain in the federation for at least one year, and such contracts cover or will be renewed for a yearly period for every subsequent year for which the federated cooperatives are to be included within the membership of the federation for cooperative payment purposes.

(iii) Its federated cooperatives have an aggregate of not less than 4,000 members and the federated cooperatives receive from their members not less than one cent per hundredweight of milk delivered by them; and its federated cooperatives will pay to the federation, when required by rules and regulations issued by the market administrator, the minimum monthly payment specified in the rules and regulations to finance the activities of the federation that are not marketwide in character: *Provided,* That no person shall be counted in this respect as a member if he is a member of a cooperative which is an applicant for or which receives cooperative payments, or if he is a member of another federated cooperative.

(iv) If the application is also for an additional payment under subparagraph (3) of paragraph (f) of this section, the aggregate membership of the federated cooperatives is not less than 6,000 members and the federated cooperatives received from their members not less than one cent per hundredweight of milk delivered by their members, subject to the proviso in subdivision (iii) of this subparagraph.

(v) If the application is also for an additional payment under subparagraph (5) of paragraph (f) of this section, the federation operates marketing facilities, i.e., pool plant(s), or the federated cooperatives operate marketing facilities, at which is received at least 25 per centum, by weight, of the pool milk marketed by the members of the federated cooperatives: *Provided,* That in determining whether the 25 per centum minimum requirement is complied with, there shall be excluded the milk delivered by members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(3) The applicant cooperative or federation demonstrates that it has the ability to perform the marketwide services for which application is made, and that such services will be performed.

(4) The applicant cooperative or the federated cooperatives of an applicant federation are in no way precluded from arranging for the utilization of milk under their respective control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification.

(c) *Notice of qualification or denial: Effective date.* Upon determination by the market administrator that a cooperative or a federation is qualified to receive payment for performance of the marketwide services, he shall transmit such determination to the applicant, cooperative or federation and publicly announce the issuance of the determination. The determination shall be effective with respect to milk delivered on and after the first day of the month following issuance of the determination. If, after consideration of an application for payments for marketwide services, the market administrator determines that the cooperative or federation is not qualified to receive such payments he shall promptly notify the applicant and specifically set forth in such notice his reasons for denial of the application.

(d) *Requirements for continued qualification.* From time to time and in accordance with rules and regulations which may be issued by the market administrator, each qualified cooperative or federation must demonstrate to the market administrator that it continues to meet the qualification requirements for the payments and is fully performing the marketwide services for which it is being paid.

(e) *Marketwide services.* Each cooperative or federation shall perform the marketwide services enumerated in this paragraph. Such services are: (1) analyzing milk marketing problems and their solutions, conducting market research and maintaining current information as to all market developments, preparing and assembling statistical data relative to prices and marketing conditions, and making an economic analysis of all such data; (2) determining the need for the formulation of amendments to the order and proposing such amendments or requesting other appropriate action by the Secretary or the market administrator in the light of changing conditions; (3) participating in proceedings with respect to amendments to the order, including the preparation and presentation of evidence at public hearings, the submission of appropriate briefs and exceptions, and also participating, by voting or otherwise, in the referenda relative to amendments; (4) participating in the meetings called by the market administrator, such as meetings with respect to rules and regulations issued under the order, including activities such as the preparation and presentation of data at such meetings and briefs for submission thereafter; (5) conducting a comprehensive education program among producers—i.e., members and nonmembers of cooperatives—and keeping such producers well informed for participation in the activities under the regulatory order and, as a part of such program, issuing publications that contain relevant data and information about the order and its operation, and the distribution of such publications to members and, on the same subscription basis, to nonmembers who request it, and holding meetings at which members and nonmembers may attend; and (6) in the case of a cooperative or federation which receives an additional payment under subparagraph (4) or (5) of paragraph (f) of this section, operating marketing facilities, or having within its membership federated cooperatives operating marketing facilities, i.e., pool plant(s), at which is received at least 25 percentum, by weight, of the milk marketed by all the members of the cooperative or by all the members of the federated cooperatives' members.

(f) *Rate, computation, time, and method of payment.* (1) Subject to the provisions of paragraph (g) of this section, the market administrator, on or before the 25th day of each month, shall make payment out of the producer settlement fund, or issue equivalent credit therefor to each cooperative or federation which is qualified for such payments for marketwide services. The payment to a cooperative shall be based upon the

pool milk reported by cooperative or proprietary handlers to have been received during the preceding month from its members, and the payment to a federation shall be based upon the pool milk reported by cooperative or proprietary handlers to have been received during the preceding month from the members of its federated cooperatives, subject in both instances to adjustment upon verification by the market administrator.

(2) Such payment or credit shall be at the rate of two cents per hundredweight of milk in accordance with subparagraph (1) of this paragraph: *Provided,* That in computing payment to a cooperative there shall be excluded all of the milk of its members who belong to another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk: *Provided further,* That in computing payment to a federation there shall be excluded all of the milk of members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(3) Any cooperative that has at least 6,000 members and any federation which has an aggregate membership of its federated cooperatives of at least 6,000 members shall receive a payment, in addition to the payment provided for in subparagraph (2) of this paragraph, of one cent per hundredweight of milk in accordance with subparagraph (1) of this paragraph and subject to the provisos contained in subparagraph (2) of this paragraph.

(4) Any cooperative that operates marketing facilities, i.e., pool plant(s), at which is received at least 25 per centum, by weight, of the milk marketed by its members shall receive a payment, in addition to the payment provided for in subparagraph (2) or subparagraph (3) of this paragraph of one cent per hundredweight of all milk marketed by its members in accordance with subparagraph (1) of this paragraph: *Provided,* That in computing the payment under this subparagraph there shall be excluded the milk delivered by a member of the cooperative who is a member of another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk.

(5) Any federation that operates marketing facilities, i.e., pool plant(s), or whose members include one or more federated cooperatives that operate marketing facilities, at which is received at least 25 per centum, by weight, of the milk marketed by the members of its federated cooperatives shall receive a payment, in addition to the payment provided for in subparagraph (2) or subparagraph (3) of this paragraph, of one cent per hundredweight of all milk marketed by such members in accordance with subparagraph (1) of this paragraph: *Provided,* That in computing the payment under this subparagraph there shall be excluded the milk delivered by members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(6) If an individually qualified cooperative is affiliated with a federation, the cooperative payment shall be made to such cooperative unless its contract with the federation specifies in writing that the federation is to receive the payments. Any such contract must authorize the federation to receive the payments for at least one year, and such agreement must cover or be renewed for a yearly period for every subsequent year for which the federation is to receive the payments.

(g) *Disqualification.* (1) The market administrator shall issue an order wholly or partly disqualifying a previously qualified cooperative or federation for payments authorized pursuant to this section and such payments shall not thereafter be made to it if he determines that:

(i) The cooperative or federation no longer complies with the requirements of this section: *Provided,* That in the case of the federation, if one of its federated cooperatives has failed to comply with the requirements of this section applicable to it or has failed, promptly after demand by the market administrator, to arrange for the utilization of milk under its control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification, the federation shall be disqualified only to the extent that its qualification for payments or the amount of its payments are based upon the membership, milk, or operations of such noncomplying federated cooperatives;

(ii) The cooperative or federation has failed to make reports or furnish records pursuant to this section or pursuant to rules and regulations issued by the market administrator; or

(iii) In the case of the cooperative, it has failed, promptly after demand by the market administrator, to arrange for the utilization of milk under its control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification.

(2) An order of the market administrator wholly or partly disqualifying a cooperative or federation shall not be issued until after the cooperative or federation has had opportunity for hearing thereon following not less than 15 days' notice to it specifying the reasons for the proposed disqualifications. If the cooperative or federation fails to file a written request for hearing with the market administrator within such period of 15 days, the market administrator may issue an order of disqualification without further notice; but if within such a period a request for hearing is filed, the market administrator shall promptly proceed to hold such hearing pursuant to rules and regulations issued by him under paragraph (i) of this section.

(3) A disqualification order issued by the market administrator shall set forth the findings and conclusions on the basis of which it is issued.

(h) *Appeals.* (1) *From denials of application.* Any cooperative or federation whose application for qualification has been denied by the market administrator may, within 30 days after notice of such denial, file with the Secretary a written petition for review. But the failure to file such petition shall not bar the cooperative or federation from again applying to the market administrator for qualification.

(2) *From disqualification orders.* A disqualification order by the market administrator shall become final 30 days after its service on the cooperative or federation unless within such 30-day period the cooperative or federation files a written petition with the Secretary for review thereof. If such petition for review is filed, payments for which the cooperative or federation has been disqualified by the order shall be held in reserve by the market administrator pending ruling of the Secretary, after which the sums so held in reserve shall either be returned to the producer settlement fund or paid over to the cooperative or federation depending on the Secretary's ruling on the petition. If such petition for review is not filed, any payments which otherwise would be made within the 30-day period following issuance of the disqualification order shall be held in reserve until such order becomes final and shall then be returned to the producer settlement fund.

(3) *Record on appeal.* If an appeal is taken under subparagraph (1) or subparagraph (2) of this paragraph, the market administrator shall promptly certify to the Secretary the ruling or order appealed from and the evidence upon which it was issued: *Provided,* That if a hearing was held the complete record thereof, including the applications, petitions, and all exhibits or other documentary material submitted in evidence shall be the record so certified. Such certified material shall constitute the sole record upon which the appeal shall be decided by the Secretary.

(i) *Regulations.* The market administrator is authorized to issue regulations and amendments thereto to effectuate the provisions of this section and to facilitate and implement the administration of its provisions. Such regulations shall be issued in accordance with the following procedure:

(1) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator at which all interested persons shall have opportunity to be heard. Not less than five days prior to the meeting, notice thereof and of the proposed regulations or amendments shall be published in the FEDERAL REGISTER and mailed to qualified cooperatives and federations. A stenographic record

shall be made at such meetings which shall be public information and be available for inspection at the office of the market administrator.

(2) A period of at least five days after the meeting shall be allowed for the filing of briefs.

(3) All regulations and amendments thereto issued by the market administrator pursuant to this section must be submitted in tentative form to the Secretary for approval, shall not be effective without such approval, and shall be publisted in the FEDERAL REGISTER following such approval. The regulations or amendments in tentative form shall be forwarded also to cooperatives and federations qualified under this section and to other persons upon request in writing. The Secretary shall either approve the regulations or amendments thereto submitted by the market administrator or direct the market administrator to reconsider the tentative rules or amendments. In the event the market administrator is directed to give reconsideration to the matter, the market administrator shall either issue revised tentative regulations or amendments or call another meeting pursuant to this section for additional consideration of the rules or amendments.

(j) *Reports and records.* A qualified cooperative or federation and any federated cooperative in a qualified federation shall make such reports to the market administrator as may be requested by him for the administration of the provisions of this section, and shall maintain and make available to the market administrator or his representative such records as will enable the market administrator to verify such reports.

(k) *Notices, demands, orders, etc.* All notices, demands, orders, or other papers required by this section to be given to or served upon a cooperative or federation shall be deemed to have been given or served as of the time when mailed to the last known secretary of the cooperative or federation at his last known address.

§ 1002.82 Cream payments.

(a) For pool milk received from dairy farmers which is classified as Class III pursuant to § 1002.37(d)(2) the butterfat from which is subsequently assigned in accordance with the provisions of the rules and regulations issued by the market administrator pursuant to § 1002.36 to sour cream, half and half, or reconstituted cream shipped to, received in, or distributed in the metropolitan district, or is not established to have been otherwise utilized, or to be still in storage, the handler required to file reports pursuant to § 1002.52 shall pay to the producer settlement fund an amount equal to nine cents per pound of butterfat if the milk was separated in the months of March through July, and 10 cents per pound of butterfat if the milk was separated in the months of August through February.

(b) With respect to Class II pool milk the butterfat from which is on hand at the plant in the form of cream, or having left the plant in the form of cream had not been delivered to a plant or purchaser by the end of the period for establishing classification, but subsequent to the end of the period for establishing classification such cream is so handled that it would have been classified at a plant in Class III pursuant to § 1002.37 (d), (1), (3), (5), or (6) had such handling occurred during the period for establishing classification, the handler who received the milk from producers may claim a refund by filing a report giving the facts with respect to such handling. On the basis of verification of such report, the market administrator shall make payment out of the producer settlement fund to such handler or issue credit against any balance due from such handler to the producer settlement fund in an amount equal to the difference between the Class II and Class III prices applicable for the month when the milk was received from producers.

§ 1002.84 Payments on milk or milk products the source of which is not established.

Payments shall be made by handlers to producers through the producer settlement fund, for milk and milk products under conditions, in amounts, and by the handler pursuant to paragraphs (a) through (d) of this section.

(a) Payments shall be made for milk, concentrated fluid milk, fluid milk products, cultured or flavored milk drinks, cream, half and half, fluid cream products, and skim milk which milk product meets each of the conditions specified in subparagraphs (1) and (2) and, if applicable, subparagraph (3) of this paragraph:

(1) It was derived from milk for which the farm source is not established.

(2) It was shipped to, received in, or distributed in the marketing area, or was received at a pool plant.

(3) If first found at a nonpool plant, the milk or milk equivalent of the butterfat is classified as Class I-A or Class II, or the skim milk is subject to the fluid skim differential.

(b) The amounts of payment for the product set forth in paragraph (a) of this section shall be as follows:

(1) For milk, concentrated fluid milk, fluid milk products, or cultured or flavored milk drinks containing 3 percent or more but not more than 5 percent of butterfat, the value of such milk, fluid milk products, cultured or flavored milk drinks, or the milk equivalent of such concentrated fluid milk at the class price at the plant where first found.

(2) For cream, half and half, fluid cream products, or cultured or flavored milk drinks containing less than 3 percent or more than 5 percent of butterfat, the value of the milk equivalent of such product at a rate per hundredweight computed pursuant to § 1002.40(d)(1) adjusted by the differentials set forth in column C in the table in § 1002.42 for the zone of the plant at which first found.

(3) For skim milk in a form subject to the fluid skim milk differential, the value at a rate per hundredweight computed as follows: divide the amount computed pursuant to § 1002.40(d)(2) by 0.9125, add an amount computed pursuant to § 1002.44 and adjust the result by the differential set forth in column B in the table in § 1002.42 for the zone of the plant where first found.

(4) For skim milk in a form not subject to the fluid skim milk differential, the value at a rate per hundredweight computed as follows: divide the amount computed pursuant to § 1002.40(d)(2) by 0.9125.

(5) In computing the milk equivalent value of products as specified in this paragraph, such value shall be computed on the basis of milk containing 3.5 percent of butterfat.

(c) Payment for any milk or milk product pursuant to this section shall be made, on behalf of the handler receiving the milk from dairy farmers, by the appropriate handler as set forth in subparagraphs (1) through (3) of this paragraph:

(1) By the handler first receiving the milk or milk product at a pool plant outside the marketing area.

(2) By the handler operating the plant where the milk or milk product is first received in the marketing area if the milk or milk product is not received at a pool plant outside the marketing area.

(3) By the handler operating the plant from which the milk or milk product was moved into the marketing area if such milk or milk product is neither received at a pool plant outside the marketing area nor at a plant in the marketing area.

(d) The amount due pursuant to this section shall be entered on the handler's account as a debit immediately after the filing of the report pursuant to § 1002.50, or if the handler fails to file such report, such amount shall be entered on the handler's account in accordance with § 1002.80.

EXPENSE OF ADMINISTRATION

§ 1002.90 Payment by handlers.

As his pro rata share of the expense of administration of this part, each handler shall, on or before the 18th day of each month, pay to the market administrator a sum not exceeding two cents per hundredweight on the total quantity of pool milk received from dairy farmers at plants or at farms in a unit operated by such handler, directly or at the instance of a cooperative association of producers, the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler under an order issued by the Commissioner of Agriculture and Markets of the State of New York, or the Director of the New Jersey Office of Milk Industry, with respect to the marketing area. Whenever verification by the market administrator discloses an error in the payment made by any handler, such error shall be adjusted not later than the date next following such disclosure on which payments are due pursuant to this section.

MISCELLANEOUS

§ 1002.95 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose, except an

obligation involved in an action instituted before August 1, 1949, under § 8c (15)(A) of the Act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received (or with respect to storage cream payments pursuant to § 1002.82(b) two years after the end of the calendar month during which such cream is utilized) if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable periods of time, files pursuant to § 8c(15)(A) of the Act, a petition claiming such money.

§ 1002.96 Continuing obligation of handlers.

Unless otherwise provided by the Secretary in any notice of amendment, termination, or suspension of any or all of the provisions of this part, such amendment, termination, or suspension shall not affect, waive, or terminate any right, duty, obligation, or liability which shall have risen or may thereafter arise in connection with any provision of this part; release or waive any violation of this part occurring prior to the effective date of such amendment, termination, or suspension; or affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 1002.97 Continuing power and duty of market administrator.

The market administrator shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary shall direct; and (c) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator pursuant to this part.

§ 1002.98 Liquidation.

Upon the termination or suspension of this part, the market administrator shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such termination or suspension. Any funds collected for expenses pursuant to the provisions of this part over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator in liquidating the business of the market administrator's office to handlers in an equitable manner.

§ 1002.99 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Recommended marketing agreement and order amending the Connecticut order. The following order amending the order as amended regulating the handling of milk in the Connecticut marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

In § 1015.3(c)(2), subdivision (i) is revised to read as follows:

§ 1015.3 Definition of Plants.

* * * * *

(c) * * *

(2) * * *

(i) Any plant qualifying as a pool plant pursuant to this subparagraph, other than a plant which has pool plant status for the month under subdivision (ii) or (iii) of this subparagraph, shall be a nonpool plant in any month of December through June in which it retains automatic pool plant status under another New England Federal order, or in any month in which it qualifies for pooling under another Federal order providing for marketwide pooling on the basis of shipments which exceed the shipments qualifying such plant for pooling pursuant to this subparagraph.

Signed at Washington, D. C. on June 7, 1963.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 63-6219; Filed, June 13, 1963; 8:45 a.m.]

[7 CFR Parts 1004, 1010]

[Docket Nos. AO-160-A25, AO-276-A5]

MILK IN PHILADELPHIA, PA., AND WILMINGTON, DEL., MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Philadelphia, Pennsylvania and Wilmington, Delaware marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 21st day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, were formulated, was conducted at Philadelphia, Pennsylvania, on September 13 and 14, 1962, pursuant to notice thereof which was issued August 15, 1962 (27 F.R. 8380).

The necessity for this hearing arose from problems created by the invalidation of compensatory payments under the New York-New Jersey Federal order by the United States Supreme Court in its June 4, 1962 decision in the case of Lehigh Valley Cooperative Farmers, Inc.,

et al., Petitioners, v. United States et al. (hereinafter referred to as the Lehigh Valley-Suncrest case). The problem of compensatory payments is principally concerned with those Federal order markets that contain provision for marketwide pooling. In those markets some system must be established which will permit handlers only occasionally, or incidentally, associated with the market to compete on reasonable terms with fully regulated handlers.

The Philadelphia market, and to a lesser degree the Wilmington market, both of which employ the "individual-handler" method of pooling, however, are located adjacent to markets regulated by Federal orders which provide for marketwide pooling. Because of the marketing relationship of these two markets with markets regulated by marketwide pool orders, it is imperative that the Philadelphia and Wilmington orders also be amended to accommodate these orders to changes being made in other Federal orders.

Testimony presented at the hearing related principally to the co-ordination of the "producer" and "producer milk plant" provisions of the Philadelphia order with the provisions of other Federal orders, particularly with the pricing and pooling provisions of the New York-New Jersey order. In view of the similar structure of the Wilmington order, the same problems of order co-ordination exist for this regulation, and, except as expressly indicated that different application is made for the Wilmington market, the findings and conclusions made with particular reference to the Philadelphia market apply with equal force to the Wilmington market and its regulation. It is particularly appropriate, therefore, that the amendments to the Philadelphia and Wilmington orders as a result of this decision co-ordinate the provisions of both orders as precisely as possible with the provisions of other Federal milk orders, and in particular with the nearby New York-New Jersey order.

The material issues on the record of the hearing relate to:

1. Modification of order provisions which apply to milk disposed of in other Federal order markets by Philadelphia and Wilmington handlers.

2. Incidence of order provisions on any plant qualified both as a "producer milk plant" under the Philadelphia order and as a fully regulated plant under the provisions of another Federal order.

3. Allocation of milk from various sources to classes of utilization.

4. Classification and assignment of certain uses of milk.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof.

1. *Modification of order provisions which apply to milk disposed of in other Federal order markets by Philadelphia and Wilmington handlers.* Section 1004.53 of the Philadelphia Order No. 4 which reads: "The price to be paid by handlers for Class I milk disposed of in the New York-New Jersey marketing area (Part 1002 of this chapter) shall be the Class I-A price computed pursuant to such part less such payment as is required on such milk pursuant to such part" should be revoked from the order.

The need for this provision no longer exists in light of the decision of the Supreme Court in the Lehigh Valley-Suncrest case concerning the complementary provision of the New York-New Jersey milk order and other revisions currently being effected in the provisions of such order.

Alternative methods of pricing milk sold by handlers under Order No. 4 into other Federal order marketing areas were proposed at the hearing:

The Philadelphia handler association and a producer cooperative which is also a handler in the market proposed that when a handler disposes of milk in another Federally-regulated marketing area such milk be classified and priced according to the terms of the order which regulates the marketing area into which the milk is sold, but that all monies due on this milk be paid to the producers who actually supplied the milk.

A major producer cooperative association in the market proposed that a Philadelphia handler who sells Class I milk into the New York-New Jersey marketing area should account to his producers for such milk at the Philadelphia Class I price, but if the Class I-A price in the New York-New Jersey market is higher than the Philadelphia Class I price, then the handler should pay the difference between the two Class I prices into the Order No. 2 (New York-New Jersey) producer-settlement fund.[1]

A major handler testified that all fluid sales made by Philadelphia handlers, regardless of whether they are inside or outside the Philadelphia marketing area should be accounted for to producers at the Order No. 4 Class I price. No further pricing or payment would apply even if some of the outside-area sales were made in the marketing area of another Federal order with a higher minimum Class I price.

Handlers who are associated primarily with, and regulated by, the Philadelphia or Wilmington Federal milk order but who dispose of some milk in another Federally-regulated market with a marketwide pool, may have obligations under the other Federal order as to milk disposed of in that marketing area. It is necessary, under such conditions, that the respective orders be coordinated in their application to milk distributed within the latter area from the Philadelphia or Wilmington market.

This requires certain amendments to the Philadelphia and Wilmington orders. Particularly is it necessary, because of operations conducted by certain handlers in each of the New York-New Jersey, Philadelphia and Wilmington markets, to amend the Philadelphia and Wilmington orders to recognize the provisions of the New York-New Jersey milk order as to milk purchased under such order by Philadelphia or Wilmington handlers for distribution in the New York-New Jersey market.

A companion decision has been issued to amend the New York-New Jersey milk order. The amendments designed for that order, which have significant application to certain handlers subject to the Philadelphia and Wilmington orders, specify that any plant from which milk is disposed of into the New York-New Jersey marketing area as Class I-A milk, either on routes or at other plants, shall have met the "pool plant" requirements under the New York-New Jersey order if the total quantity of such Class I-A milk exceeds 800 pounds per day and the percentage of total Class I-A and I-B milk in the plant is not less than the New York-New Jersey marketwide Class I-A and I-B utilization percentage for the same month in the preceding year. Any plant which disposes of less than 800 pounds per day of Class I-A milk in the New York-New Jersey marketing area but which meets the other "pool plant" requirements would be exempt of the pooling and pricing provisions of Order No. 2.

Any such plant disposing of Class I-A milk in the New York-New Jersey market in excess of 800 pounds per day need not be a pool plant, however, if (a) the Class I-A sales in the marketing area are offset by receipts of Class I milk priced under any order with a marketwide pool, or (b) the handler establishes a pool bulk tank unit(s) of producer milk under Order No. 2 sufficient to offset his Class I-A sales of milk into the New York-New Jersey marketing area, to be pooled in the same maner as other producer milk.

Any plant or bulk unit disposing of any Class I-A milk in the New York-New Jersey marketing area but with a utilization percentage below the market average for the same month in the preceding year would partially pool the total quantity of milk in Class I-A.

Under such revisions of the New York-New Jersey order, a Philadelphia handler, for example, who disposes of Class I-A milk in the New York-New Jersey marketing area would be enabled to designate some of his producers in a "pool bulk tank unit" under Order No. 2. The milk received from these producers would be fully pooled and priced as producer milk under the New York-New Jersey order. The handler would be charged the classified-use value on this milk under Order No. 2 in the same manner as any pool handler in like circumstances and would be given credit at the applicable Order No. 2 blend price. The handler then would be required to pay this minimum blend price to his designated New York-New Jersey producers.

To coordinate with these provisions of the New York-New Jersey order, the Philadelphia and Wilmington orders

[1] Although a specific proposal was not made in this regard, the same proponent suggested further that if an Order No. 2 handler sold milk into the Philadelphia marketing area and the Order No. 4 class prices exceeded the Order No. 2 class prices, the Order No. 2 handler should make payment of the difference in prices to the Order No. 4 market administrator. It was not indicated, however, how the proceeds might be distributed among Philadelphia producers through the individual-handler pooling plan.

should be amended to provide that a handler regulated under either of the latter orders who regularly receive milk from dairy farmers whom he designates to producers under the New York-New Jersey order, to offset his disposition of Class I-A milk in that market, will not be obligated further for payment to such dairy farmers under the terms of these orders. This may be done by deducting from the handler's total receipts of milk and total classified disposition of milk, the receipts of milk from the designated dairy farmers and the disposition of these receipts.

Thus, in computing the total quantity of milk in each class, in allocating receipts to classes, and in computing the handler's net obligation under the Philadelphia order, the milk of such Order No. 2 producers and the classified use value of their milk would not be included with the receipts and disposition of the milk received from his Order No. 4 producers. (A description of the specific amendment necessary to accomplish this may be found below under the heading "Allocation of milk to classes". A description of the allocation treatment of Class I milk received as an offset to disposition in the New York-New Jersey market also will be found under that heading.)

Situations may arise, however, where a plant regulated under the Philadelphia or Wilmington order disposes of Class I-A milk in the New York-New Jersey marketing area but its utilization percentage is below the market average for the same month in the preceding year. If such a plant does not offset its Class I-A sales in the marketing area by receipts of Class I milk priced under any marketwide pool order or establish a pool bulk tank unit of producer milk under Order No. 2 sufficient to offset its Class I-A sales then the quantity of Class I-A milk disposed of in the New York-New Jersey marketing area would be subject to "partial pooling" under Order No. 2. Under these conditions, the Philadelphia or Wilmington handler would be charged the Class I-A price under the New York-New Jersey order on the quantity of Class I-A milk disposed of in that marketing area and given credit at the applicable Order No. 2 blend price. However, the handler would not be obligated under Order No. 2 to pay this blend price to his producers.

It is concluded in the New York-New Jersey decision that unless the above provision is contained in the order for handling Class I-A milk disposed of from a low utilization plant under an individual-handler pool order, the operator of such a plant could dispose of substantial quantities of milk as Class I-A (generally up to 25 percent of his producer receipts) without becoming fully regulated, thereby improving his competitive position at little or no expense to himself.

The Philadelphia and Wilmington individual handler pool orders have limited capability of achieving marketing stability because they have virtually no regulatory effect upon cooperative associations in their capacity as the handler or operator of a milk plant. The statute authorizes cooperative associations to return the proceeds (whatever they are) received from the sale of milk in all markets to their own members without regard to the minimum class prices specified in the respective orders. Although cooperatives under this provision of the statute may not sell milk to regulated handlers at less than the class prices specified in the order, no particular provision is made with respect to the sale of milk to nonhandlers, such as the sale of milk to consumers. Thus, if any cooperative association accumulates quantities of milk beyond those that it can sell readily at normal prices, a special incentive arises for the cooperative to find some outlet when this excess may be disposed of at any price above its manufacturing value. It is especially advantageous if the outlet for this additional milk is outside of the cooperative's major market or area of disposal.

Proprietary handlers also face different incentives when they operate under individual-handler pooling than when they operate under marketwide pooling. Under individual-handler pooling, procurement advantages accrue to the individual handler who maintains a relatively high blended return to his own producers. Consequently, a proprietary handler who accumulates more than an average proportion of surplus milk is under competitive pressure either to reduce his purchase of milk from producers (usually by cutting off purchases from one or more producers) or by attempting to increase his Class I sales. One advantageous way to increase Class I sales is by reducing prices in some market outside the handler's normal or major area of distribution.

To coordinate the Philadelphia and Wilmington orders with this provision of the New York-New Jersey order, the transfer provisions in these two orders should be amended to provide that any milk disposed of in another Federal marketing area either on routes or to regulated plants and subject to "partial pooling" under such order, should be classified under the originating order in accordance with the utilization reflected by the blend price computed under such other order. The handler's obligation for such milk under the Philadelphia or Wilmington order (as the case may be) would be determined by applying the applicable order class prices to such classification.

It is necessary also to make conforming amendments in other sections of the respective orders. The "producer" and "producer milk" definitions under the Philadelphia and Wilmington orders should be amended to exclude therefrom any dairy farmers whose milk becomes producer milk under the New York-New Jersey order. This amendment is necessary to relieve the handler of any obligation to these dairy farmers under the Philadelphia or Wilmington orders.

Similarly, coordinating amendments are necessary to the section requiring handlers to report certain information to the market administrator and to § 1004.61(c).

To further accomplish the objectives outlined above, milk regulated under the Philadelphia or Wilmington Federal order which is disposed of in another Federal order market should receive similar classification treatment under both orders. Classification should be based upon assignment in the market where used. (Later in this decision under another issue is a description of the specific procedure for allocating to classes milk received by Philadelphia and Wilmington handlers from other Federal order markets.) The provisions contained in this decision will permit dovetailing with other orders as complementary amendments to such orders are possible.

Except in the circumstances previously described, the interplant transfer provisions, therefore, should classify milk in the class (or classes) to which assigned under the other Federal order when such milk is transferred from a plant regulated by the Philadelphia or Wilmington order to a plant regulated by another Federal order.

2. *Incidence of order provisions on any plant qualified both as a "producer milk plant" under the Philadelphia order and as a fully regulated plant under the provisions of another Federal order.* Section 1004.61(a) of the Philadelphia order should not be amended to revoke the language, "* * * unless, notwithstanding that it would be regulated under this part, it is nevertheless regulated under such other order".

It was proposed by a producer cooperative association that such language should be deleted from the order. If this language were deleted, a handler whose Class I sales in the Philadelphia marketing area exceed those in another federally regulated marketing area could not be relieved of his obligations under Order No. 4 even though he became regulated under the other order also.

Full regulation of milk under more than one order, of course, should be avoided. Under most circumstances it is appropriate that plants doing business in two or more markets should be regulated by the order under which they do the greatest proportion of their total Class I business. The Federal orders which provide for marketwide pooling require, however, that plants meet specified performance standards for pooling. Once a plant has met these performance standards, then the pool producers who deliver to that plant share, along with all other dairy farmers supplying the market, the returns from the utilization of all milk delivered for sale in the market. The requirements to cause such plant to be pooled are necessary to provide the market with an adequate supply of pure and wholesome milk. Unless all such plants are included in the marketwide pool, the applicable regulation would fail to achieve its purpose of providing stabilized marketing conditions which depend upon the marketwide sharing of pool funds. To assure that the Philadelphia order will be coordinated with Federal marketwide pool orders, it is concluded that the Philadelphia order should continue to relieve any handler of his pricing obligations under Order No. 4 if such handler's plant becomes regulated under another Federal order, notwithstanding its regulated status under this order.

Situations may arise, however, where a Philadelphia handler has Class I distribution in the Philadelphia marketing area and, in addition, has Class I distribution in another Federal marketing area where the other order exempts such plant from pooling. At the present time the standard of "majority" route sales is used in this order to determine which Federal order will regulate a plant that has route, and perhaps other Class I, disposition in more than one federally regulated marketing area.

An operating cooperative proposed that an Order No. 4 pasteurizing or bottling plant which has route sales and bulk or packaged sales to other plants in more than one Federal milk marketing area be regulated in the market in which it has the greatest quantity of Class I milk, including both sales to other handlers and route disposition. This concept also was supported by two proprietary handlers.

Another cooperative contended that association with the market for regulatory purposes normally should be based upon regularity of shipment and suggested that route sales continue to be used as the best measure of market association since milk sales in bulk normally tend to fluctuate more widely than route sales. This cooperative association stated in its brief, however, that it did not oppose the proposal of the operating cooperative.

The situation has occurred where a Philadelphia handler's route distribution in the Philadelphia marketing area does not exceed his route distribution in another federally regulated marketing area, but because substantial quantities of bulk milk are supplied to other handlers in Philadelphia, the handler's total volume of Class I milk disposed of in the Philadelphia market exceeds his Class I disposition in the other market.

It is concluded that except in those cases where the plant is required to be regulated under another order by virtue of meeting the requirements for pooling under such order, it is reasonable to regulate the distributing plant under the order for the area in which it disposes of the greatest volume of Class I milk both on routes and to other plants.

To avoid conflict between the Philadelphia order and other Federal orders, it also is necessary to clarify the "producer milk plant" definition of the Philadelphia Federal order in light of the application of § 1004.61.

3. *Allocation of milk from various sources to classes of utilization.* The provisions for the allocation of milk to classes, especially as they apply to receipts of milk from other than producer sources, should be modified:

(a) *Allocation of receipts from Federal marketwide pool orders to offset sales in New York-New Jersey market.* The allocation provisions of Philadelphia Order No. 4 currently require that a handler must allocate all receipts of milk priced under other Federal orders to any available Class II milk. In the Wilmington market all receipts from plants under other Federal orders, except Class I products in packaged form which are received from a plant at which only producer milk was allocated to Class I milk, likewise are allocated to any available Class II milk. No exception is made in either order for a handler who distributes milk also in the New York-New Jersey marketing area, and who, on the basis of the amendments to that order, to avoid pooling under such order, must receive a volume of milk either from plants subject to Federal marketwide pool orders or from pool bulk tank units under Order No. 2 which is not less than the Class I-A volume sold in the Order No. 2 marketing area.

The need to coordinate the provisions of the Philadelphia and Wilmington Federal orders with the New York-New Jersey order were described under issue No. 1. In that connection, it was indicated that a Philadelphia or Wilmington handler would be able to purchase Class I milk from any marketwide pool order for the purpose of offsetting his Class I-A sales in the New York-New Jersey marketing area. To avoid additional payment by the handler on such milk, it should be assigned to Class I milk under the Philadelphia (or Wilmington) order. To assure that this milk does receive a Class I assignment, these receipts should be assigned before other receipts of milk are assigned to classes. The provisions contained in the amendatory language will permit dovetailing with other orders as complementary amendments to such orders are possible.

Milk may be received by the Philadelphia or Wilmington handler from a bulk tank unit, regulated by Order No. 2, to offset his Class I-A sales in the New York-New Jersey marketing area. Such receipts will be fully classified and priced under the New York-New Jersey order, however, any such receipts in excess of the handler's Class I-A sales in the New York-New Jersey marketing area will be classified in accordance with their classification assignment under the Philadelphia or Wilmington order.

Except as described in the "offset" provision set forth above, any milk received by a handler under Orders Nos. 4 or 10 from other Federal orders should be allocated to classes in the manner set forth in (c) below.

Section 1004.61(d) of the Philadelphia order sets forth the classification assignments under Order No. 4 in relation to corresponding assignment under the New York-New Jersey order. A similar provision should be added to the Wilmington order for comparability.

(b) *Allocation of receipts from unregulated sources.* A representative of the State of Wisconsin supported a proposal to require local producers to share their Class I sales proportionately with any milk purchased by a handler from sources not regulated by a Federal order. This witness testified further that the administrative assessment applicable under the order should be applied on the actual volume of milk shipped to the market from an unregulated plant rather than on total dairy farmer receipts at such plant.

This witness maintained that to allocate unregulated milk to any available quantity in the lowest-priced use classification when received in the Philadelphia market reduces the opportunities for the sale of such milk when supplemental milk supplies may be needed.

The Wisconsin representative stated further that although on an annual average basis the Class I prices in the Philadelphia market may not exceed the prices of milk in Wisconsin by an amount to encourage shipments on a year-round basis, the Philadelphia Class I prices might exceed Wisconsin prices sufficiently during the fall months of the year when production is shortest to encourage a Wisconsin plant operator to seek outlets in the Philadelphia market provided the order does not create an impediment.

It was developed in this connection that, based on 1961 data, only during the last six months of the year was the Philadelphia Class I price sufficiently high to more than cover the farm price of whole milk at a Wisconsin plant plus estimated handling and shipping costs. Even then, during the three months of July through September the Class I price minus cost difference amounted to only 20 cents per hundredweight. For a Philadelphia plant with any appreciable amount of Class II milk the blend price would be, of course, well below the Class I price. In the Wilmington marketing area the Class I prices are constantly 15 cents lower than in the Philadelphia marketing area, making this market even less attractive to the distant shipper.

The representative of a Philadelphia regulated handler who operates a plant in Wisconsin stated that cream is shipped regularly from its Wisconsin plant into its Philadelphia plant for Class II uses, but that fluid milk is not shipped because it has not been found practicable to do so since the Order No. 4 Class I price minus the sum of hauling cost from Wisconsin and local receiving station cost in Wisconsin yields a value less than current prices to farmers for milk at the Midwestern location.

The Philadelphia handler with the Wisconsin plant testified further that there would be no other obstacle to associating the entire supply of its Wisconsin plant with the company's Philadelphia producer milk plant system for the purpose of furnishing fluid milk to the market, since the only requirement would be to notify the market administrator that the plant was being included in the system.

At present the Philadelphia and Wilmington orders allocate "other source milk" to any available Class II utilization before the allocation of producer milk. Since compensatory payments have not been practicable under these orders with individual-handler pools, it has been considered necessary to establish "pooling" provisions which, in most circumstances, would bring under full regulation the operator of any plant which supplies milk to the market, any part of which is allocated to Class I.

However, during the months of October through January under the Philadelphia order, and for the months of September through December under the Wilmington order, a plant may ship milk to the market for short periods for allocation to Class I milk, without causing the plant to become fully regulated.

The four months specified under each of the respective orders have been the months of shortest production in the market. These are the months, therefore, when handlers are most likely to find it necessary to import supplemental supplies to meet fluid needs. Unless shipping privileges during this period are reasonably liberal, handlers may have some difficulty in securing supplemental supplies when necessary since unregulated plant operators may be reluctant to place their entire milk plant operations under full regulation on the basis of limited shipments to the market. The Wisconsin witness at the hearing affirmed the need for provisions in the order under which some supplemental supplies may be shipped free of regulation.

Under individual-handler pools, if relatively high percentage delivery performance standards were established in the manner frequently employed with marketwide pools, a handler could procure part, or all, of his supply from plants not meeting the qualifying standards and, by so doing, evade regulation. Consequently, it is necessary that a procedure be established which protects the integrity of the regulation. Except in the limited circumstances described, the operator of any plant which regularly supplies milk to the market any part of which is allocated to Class I must be regulated under the terms of the order in order to maintain a reasonable degree of uniformity among handlers in the pricing of milk purchased. The record of this hearing does not provide grounds for any basic change in the pooling provisions of these orders.

In considering the appropriate assignment of transfers of milk (whether in bulk or packaged form) from unregulated plants to plants regulated under the Philadelphia and Wilmington orders, there are four different types of transfers which must be evaluated:

(i) *Transfers from an unregulated supply-type plant to a regulated distributing-type plant.* As a general proposition it is desirable that the allocation provisions should not impede the shipment of milk from unregulated supply-type plants to regulated distributing-type plants, so long as they do not, at the same time, provide an incentive for the handler to circumvent the order to gain price advantage over other handlers receiving producer milk.

As stated above, the present pooling provisions require supply plants to become subject to full regulation during eight months of the year if they ship any milk which is allocated to Class I. The present orders provide further that during all months of the year receipts of other source milk shall be allocated first to Class II milk. This, of course, reduces the probability of allocation to Class I and, therefore, of the full regulation of the source plant during any of the eight months. Pro rata allocation of other source milk, on the other hand would require that some portion of such milk received be allocated to Class I which, accordingly, would result in the full regulation of the source plant during any of the eight months in which milk was shipped into the market.

Situations may arise, perhaps frequently, where milk is received at a regulated distributing plant from an unregulated supply-type plant specifically for Class II uses. If the order were to require that such milk be subject to pro rata allocation, the supply plant definitely would become subject to regulation when it supplied any amount of milk, no matter how small or whether supplied for manufacturing use, to a regulated distributing plant (except during the four specified months on less than the number of days required for pooling). Under these conditions the operator of the supply plant could well refuse to sell milk to the regulated handler and, consequently, the most efficient use of facilities might be prevented. It is concluded, therefore, that the regulated handler and operator of the unregulated supply plant should be permitted to claim Class II assignment for such receipts in writing at the time of filing the monthly report. The market administrator then would assign such receipts to any available Class II milk at the regulated plant.

If such receipts were in excess of the available Class II milk at the distributing plant, such excess receipts would be assigned to Class I and, accordingly, the supply plant would become subject to full regulation as otherwise provided. Once the supply plant became subject to full regulation the entire quantity of transferred milk would be subject, of course, to the specific conditions set forth in the inter-handler transfer provisions.

Receipts of milk at regulated distributing plants from unregulated supply plants for which claim for Class II assignment has not been made by each of the parties involved will be considered to have been allocated pro rata to Class I and II milk for the purpose of determining such plant's status as a producer milk plant (or fluid milk plant). Accordingly, such pro rata allocation will result in the full regulation of the supply plant under the specified conditions set forth in the order. It is necessary, also, to make conforming amendments in the "producer milk plant" and "fluid milk plant" definitions of the respective orders to coordinate these definitions with the revised allocation procedure.

During the months of October through January in Philadelphia, and September through December in Wilmington, receipts of other source milk can be allocated to Class I on less than the number of days (11) required as a minimum for for pooling, without causing the source plant to become fully regulated. Pro rata allocation of receipts from unregulated supply-type plants at regulated distributing plants during such temporary periods will provide for the proportionate sharing of the Class I sales between producer milk and other source milk and consequently will permit operators of unregulated supply-type plants to compete on reasonable terms with regulated sources for Class I outlets during these months of seasonally low production if and when supplemental supplies are needed.

Once such milk has been allocated to Classes I and II in the same manner as producer milk, the regulated handler receiving the milk presumably is enabled (but not required by the order) to pay at least the same uniform price for the unregulated milk as he pays for producer milk. There is little likelihood, however, that a handler operating a distributing-type plant could gain substantial advantage over the longer term by reducing his regular supply during the four short production months in favor of the temporary purchase of unregulated milk during such months when, in most areas, milk is generally in greater demand and prices are at their highest seasonal level.

It is concluded, therefore, that receipts from an unregulated supply-type plant at a regulated distributing-type plant during the four specified months in each of the two orders and on less than the number of days required as a minimum for pooling should be deducted pro rata from Class I and Class II milk as the final step in determining the net classification of producer milk unless a claim has been received in writing from both parties that such receipts were Class II milk. Accordingly, the order will provide that receipts from such supply-type plant at a regulated distributing plant during any of the other eight months of the year, or during any of such four months on at least the number of days required as a minimum for pooling, would cause the supply-type plant to become fully regulated under the order for the applicable month unless a claim has been filed that such receipts are Class II milk and the receiving handler has a sufficient quantity of Class II milk to cover the receipt.

(ii) *Transfers from any unregulated plant to a regulated supply-type plant.* Receipts of other source milk at supply-type plants should continue to be allocated to any available Class II milk at the supply plant. Some of the federally regulated supply plants have manufacturing facilities and constitute outlets for excess supplies of both regulated and unregulated milk. Unregulated milk is seldom moved to these supply plants for other than surplus disposal purposes. To disturb this arrangement would interfere both with the orderly disposal of the surplus of both regulated and unregulated fluid markets and the procurement of milk for the efficient operation of manufacturing facilities at the regulated supply plants. Thus, when milk is received at a regulated supply plant, it should continue to be assigned first to Class II milk.

(iii) *Transfers from an unregulated distributing-type plant to any regulated plant.* Located in areas near these two federally regulated markets are many urban markets which are served by distributors who are not regulated under any Federal milk order. If any of these distributors desires to participate in the market on the same basis as handlers currently under regulation, he has only to distribute some Class I milk in the marketing area or to ship milk to a regulated handler who has a sufficiently high Class I utilization to cause some

of this milk to be allocated to Class I milk (after assignment first to Class II) during any month except the four specified months. Generally, however, these distributors do not choose to perform on this basis since to do so would place them under regulation as "handlers". In making the choice of whether to become regulated, they probably would give consideration to their competitive position in unregulated markets, since, if they became regulated handlers, their entire receipts and disposition of milk would be subject to the classification and pricing provisions of the order, including any sales in unregulated markets.

Such distributors do find it convenient at times, however, to dispose of their weekend and seasonal reserve milk in bulk to plants regulated under one of these orders for Class II use. But, this transaction is most likely to occur during those eight months of the year when, if any of this milk were allocated to Class I, the handler would become fully regulated. If such milk were subject to pro rata allocation at the regulated plant, then some of this milk definitely would be allocated to Class I milk, inevitably resulting in full regulation of the distributor. Pro rata allocation would either (1) nullify the choice of remaining unregulated, or (2) remove a readily available outlet for their reserve milk supply. It is concluded, therefore, that bulk or packaged receipts at any regulated plant from an unregulated plant engaged in bottling and distributing milk in fluid form should continue to be allocated first to any available Class II milk in the regulated plant.

(iv) *Transfers from a producer-handler to any regulated plant.* Receipts of milk at any Philadelphia or Wilmington regulated plant from a producer-handler under any Federal order also should continue to be allocated first to available Class II milk.

Any person with producer-handler status under any Federal order is, for the most part, exempt from the classification and pricing provisions of that order. Basically, the justification for such exemption is that a producer-handler's Class I distribution operation usually represents a self-contained enterprise which does not rely upon other producers to carry the burden of its surplus.

Normally, however, the producer-handler does not maintain facilities for processing manufactured milk products. But from time to time, and particularly during the flush months, he (along with producers generally) may produce milk in excess of his own Class I distribution needs. This is surplus milk and it must be disposed of through some other outlet. As long as the producer-handler has the advantage of enjoying the full benefit of his own Class I sales customarily made on his own distribution routes, without pooling them with sales of other producers, he should not also receive Class I benefit, at the expense of other producers, for any of his milk which he must sell to regulated handlers. Thus, any milk disposed of by a producer-handler under any Federal order to a fully regulated handler's plant should be allocated to any available Class II milk at the regulated handler's plant as surplus of the producer-handler.

The administrative assessment should be charged in the following manner on the four categories of other source milk described above. The regulated handler should be required to pay the administrative assessment on all receipts at his distributing-type plant from unregulated plants which are assigned pro rata to Class I and Class II milk. Since it has been concluded that such receipts share the handler's Class I sales with producer milk, such receipts should be subject to the same administrative assessment as producer milk. On all other receipts from unregulated plants, the regulated handler should be required to pay the administrative assessment on only the quantity which is assigned to Class I milk, as currently provided by the orders as to other source milk.

(c) *Allocation of receipts from other Federal orders.* It is likewise necessary, to accommodate movements of milk between regulated markets, that these orders be amended in regard to the allocation of milk received at Philadelphia and Wilmington plants from plants under other Federal orders.

The Philadelphia and Wilmington orders should be amended to provide that Class I products in consumer packages which are fully classified and priced as Class I milk under any other Federal order and are received at any producer milk plant (or fluid milk plant) shall be assigned to Class I milk. Class I products moved in consumer packages from a handler under one Federal order to the plant of a handler in another order market normally represent a regular part of the Class I milk supply for the market where they are sold. Most intermarket movements of packaged products are purchased specifically for route sales and the transferee-handler must develop such sales and maintain them on a continuing basis. The packaged Class I products often represent specialty items not processed in the receiving plant or milk in special packages which the receiving plant is not equipped to handle for processing.

Bulk milk received at the supply-type plant of a Philadelphia or Wilmington handler should be assigned to any available Class II milk for reasons set forth earlier in this decision.

Bulk milk priced under any other Federal order and received at the distributing-type plant of a Philadelphia or Wilmington handler should be assigned pro rata to Class I and Class II milk. Such pro rata assignment should apply to any remaining product pounds of Class I milk and Class II milk at the receiving plant after assigning to Class I milk the receipts of certified milk in packaged form, Class I packaged milk from plants under other Federal orders and after assigning to Class II milk, to the extent possible, milk from nonfederally regulated sources. Receipts of bulk milk from marketwide pool orders which had not been assigned previously to offset Class I sales in another Federal marketing area would be included in this pro rata allocation. Class III products under Order No. 2, however, should continue to be allocated to Class II milk since these classes are similarly priced.

Because milk received from other Federal orders already has been charged an administrative assessment under the originating order, no administrative assessment would be levied on such receipts.

4. *Classification and assignment of certain uses of milk.* The Philadelphia (and Wilmington) orders should continue to assign first to any available Class II milk, those products which are included in Class III milk under Order No. 2 but are defined as Class I milk under the Philadelphia and Wilmington orders.

A proprietary handler who has route disposition in both the Philadelphia and New York-New Jersey marketing areas receives at its Philadelphia regulated pasteurizing and bottling plant in Trenton, New Jersey such items as half-and-half, buttermilk, skim milk, cream and bottled fluid milk in consumer type packages of particular size from an affiliated plant at Newark, New Jersey regulated under the New York-New Jersey order.

Half-and-half, buttermilk and bottled skim milk under the New York-New Jersey order which are distributed outside the New York metropolitan district are included in Class III milk, but under the Philadelphia order they are defined as Class I milk wherever sold.

This handler also has distribution in Mercer County, New Jersey, in competition with Order No. 2 handlers. Because this county is not under any Federal order the handler claims competitive disadvantage on these items with Order No. 2 handlers distributing in the same county since he is accountable to producers at the Philadelphia Class I price for such products, while Order No. 2 handlers account under the New York-New Jersey order for such products at the New York-New Jersey Class III price. The handler proposed that, regardless of the pricing applied under the New York-New Jersey order, all receipts from such order which are classified as Class I milk under the Philadelphia order be allocated to Class I milk when received at a Philadelphia handler's plant.

There is competition between New York-New Jersey and Philadelphia handlers in unregulated areas located in New Jersey for the sale of half-and-half, buttermilk and bottled skim milk. As stated above, Order No. 2 handlers selling in these unregulated markets are required to pay only the Class III price for milk used in these products when such products are disposed of outside the New York-New Jersey marketing area. Philadelphia handlers with disposition in these same unregulated markets are required, however, to pay the Class I price for milk used in these products.

Basically, the problem presented by proponent in connection with such proposal, involves primarily the sale of these products in the unregulated areas located in New Jersey rather than within the New York-New Jersey or Philadelphia markets.

Proponent's solution was that all receipts from the New York-New Jersey market which are classified as Class I milk under the Philadelphia order should be allocated to Class I milk when received at a Philadelphia regulated plant regardless of the pricing applied under Order No. 2. If this proposal were adopted, Order No. 4 handlers would be encouraged to purchase these products from Order No. 2 sources since they are priced as Class III milk under Order No. 2. Such purchases would replace milk received from Philadelphia producers and reduce an essential outlet for the milk of Philadelphia producers. It could only expand the problem of price difference on these products by having an adverse effect upon the competitive position of other Philadelphia handlers who might not be in as favorable a position to purchase these products from Order No. 2 sources, but would purchase milk for such products at the Class I price under the Philadelphia order. For these reasons, such products should continue to be assigned to Class II milk and the proposal therefore is denied.

To bring about equivalent pricing of these products under the Philadelphia, Wilmington and New York-New Jersey orders it would require either a reclassification of the products to a lower class under the Philadelphia and Wilmington orders or, conversely, a higher classification under the New York-New Jersey order. Neither of these courses is possible from this hearing. Further, involvement of these products under the Philadelphia and Wilmington orders can be avoided if the handler who purchases these products from Order No. 2 sources for distribution in unregulated markets does not receive these products at his regulated plant, but instead moves such products from the New York-New Jersey regulated plant directly to a distribution depot not physically connected with his regulated plant.

The same handler proposed also that buttermilk, flavored milk drinks, half-and-half and certain dietary products which are sold on routes from Philadelphia regulated plants into the New York-New Jersey marketing area be priced under the Philadelphia order at the Order No. 2 Class III price. According to the witness, the failure to so classify and price such products imposes a "penalty" upon Order No. 4 handlers who dispose of milk into the New York-New Jersey market.

The Philadelphia order classifies such products as Class I milk, wherever sold. They are classified Class III milk under the New York-New Jersey order when disposed of outside the New York Metropolitan district of the marketing area. If such products are distributed inside the Metropolitan district, however, they are classified Class II milk. Further, these products (except buttermilk) when disposed of inside the New York-New Jersey marketing area, regardless of whether they are classified Class II or Class III, are subject to the "fluid skim differential" under that order. This differential increases the price of any such products classified as Class II milk to a level which corresponds to the Class I-A price, and increases the price of such products classified as Class III milk to a level only slightly below the Class I-A price. Therefore, we may not agree that the price differences between the orders on such products disposed of in the Order No. 2 marketing area have the adverse effect contended by the proponent. The second proposal, therefore, is denied.

Rulings on proposed findings and conclusions and on motions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

At the hearing a motion was made requesting the Secretary of Agriculture, in making this decision affecting the Philadelphia and Wilmington orders, to take judicial notice of any decision and amendments to the New York-New Jersey milk marketing order to result from the hearing which was convened on September 5, 1962, at New York City. A brief was filed in which this motion was reiterated. In arriving at the findings and conclusions and provisions contained herein, the findings and conclusions and provisions in the decision to amend the New York-New Jersey milk order based upon such hearing have been taken into account. Interested persons in the Philadelphia, Wilmington, and New York-New Jersey markets will have opportunity to examine the two decisions to determine how the respective orders have been correlated and to advise the Secretary accordingly in their exceptions. The motion is moot and, therefore, specific ruling thereon is unnecessary.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders (and of the previously issued amendments thereto) and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Recommended marketing agreements and orders amending the orders. The following orders amending the orders regulating the handling of milk in the Philadelphia, Pennsylvania, and Wilmington, Delaware, marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended:

Amendments to Philadelphia order provisions. 1. In § 1004.7 the introductory text is revised and in paragraph (b) revise the language *"And provided further"* to read *"Provided further"*, change the period at the end of the paragraph to a colon and add the following proviso.

§ 1004.7 Producer milk plant.

"Producer milk plant" means, except as provided in § 1004.61:

* * * * *

(b) * * * *And provided also,* That for the purposes of this paragraph all milk supplied during the month to a pasteurizing or bottling plant described in paragraph (a) of this section from any plant not engaged in bottling and distributing milk in fluid form, shall be considered to have been allocated pro rata to Class I and Class II milk, unless both the buying handler and seller each file in writing not later than the date on which reports are due pursuant to § 1004.30 a claim that such milk shall be allocated to Class II milk pursuant to § 1004.47 and a sufficient quantity of Class II milk is available in the plant of the transferee handler.

2. Revise the introductory text in § 1004.10 preceding the proviso to read as follows:

§ 1004.10 Producer.

"Producer" means any person (except a producer-handler, a dairy farmer whose milk is received as milk diverted from a nonproducer milk plant, and a dairy farmer whose farm is included in a pool bulk tank unit as defined under the New York-New Jersey milk order), who produces milk which is received directly at a producer milk plant or is diverted in accordance with the provisions of paragraph (a) of this section:

* * * * *

3. Revise § 1004.12 to read as follows:

§ 1004.12 Producer milk.

"Producer milk" means only that milk (a) received at a producer milk plant directly from producers, not including milk received as diverted for another handler's account or milk received in a

pool bulk tank unit as defined under the New York-New Jersey milk order; or (b) diverted by the handler in his capacity as the operator of a producer milk plant, in accordance with the provisions of § 1004.10: (1) To a nonproducer milk plant; or (2) To the producer milk plant of another handler.

4. Revise § 1004.30 by adding a new paragraph (h) to read as follows:

§ 1004.30 Reports of receipts and utilization.

* * * * *

(h) Milk received from dairy farmers whose farms are included in a pool bulk tank unit(s) as defined under the New York-New Jersey milk order.

5. Revise § 1004.31(b) (3) and (5) to read as follows:

§ 1004.31 Other reports.

* * * * *

(b) * * *

(3) Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, or with respect to any dairy farmer whose farm is included in a pool bulk tank unit as defined under the New York-New Jersey milk order for whom such information is requested by the market administrator, and with respect to a period or periods of time designated by the market administrator, (i) the name and address, (ii) the total pounds of milk received, (iii) the average butterfat test of milk received, and (iv) the number of days upon which milk was received;

* * * * *

(5) Promptly after milk is first received from any producer or dairy farmer whose farm is included in a pool bulk tank unit as defined under the New York-New Jersey milk order, (i) the name and address of such producer or dairy farmer, (ii) the date upon which such milk was first received, and (iii) the plant at which such milk was received.

6. In § 1004.44 paragraph (a) the reference to "subparagraph (6) of § 1004.47 (a) and (b)" is revised to read "subparagraph (7) of § 1004.47 (b) and (c)", redesignate paragraph (c) to paragraph (d), add a new paragraph (c), and revise the introductory text of former paragraph (c) [redesignate as paragraph (d)] to read as follows:

§ 1004.44 Transfers of milk.

* * * * *

(c) In the class or classes to which assigned under another Federal order if transferred to a nonproducer milk plant regulated by the other order: *Provided,* That (1) if any milk is disposed of in the New York-New Jersey marketing area, either on routes or to regulated plants, which is subject to the classification and pricing provisions of Order No. 2 it shall be classified in accordance with its classification assignment under the New York-New Jersey order, or (2) if such milk is subject to "partial pooling" under another Federal order it shall be classified in accordance with the utilization reflected by the blend price computed under such order.

(d) As Class I milk if transferred in bulk to a nonproducer milk plant which is not subject to another Federal order unless:

* * * * *

7. In the proviso in § 1004.45(a) the reference to "subparagraph (6) of § 1004.47 (a) and (b)" is revised to read "subparagraph (7) of § 1004.47 (b) and (c)."

8. Revise § 1004.47 to read as follows:

§ 1004.47 Allocation of milk, skim milk, and butterfat classified.

After making the computations pursuant to § 1004.46 the market administrator shall determine the classification of producer milk for each handler as follows:

(a) For each handler who either receives milk priced under a Federal order which provides for marketwide pooling to offset his disposition of Class I milk under a marketwide pool order, or receives milk from dairy farmers whose farms are included in a pool bulk tank unit under the New York-New Jersey order, subtract such receipts from the product pounds in each class in accordance with its classification assignment under the other order, except that if any such milk exceeds the quantity classified under such other order as Class I (Class I–A in the New York-New Jersey order), it shall not be subtracted pursuant to this paragraph.

(b) The gross product pounds remaining after the computation in paragraph (a) of this section of milk and milk products classified shall be allocated in the following manner:

(1) Subtract from the total product pounds in Class II milk, the product pounds in producer milk classified pursuant to § 1004.41(b)(5);

(2) Subtract from the total product pounds in Class I milk, the product pounds of receipts of certified milk in packaged form;

(3) Subtract from the remaining product pounds of Class I milk, any remaining product pounds of other source milk in the form of products designated as Class I milk in § 1004.41(a) received during the month in consumer-type packages from a fully regulated plant under another Federal order if classified and priced as Class I milk under such order, or subject to such classification and pricing if assigned to Class I milk under this order;

(4) Subtract from the remaining product pounds in each class, in sequence, beginning with Class II milk the total product pounds of milk and milk products in receipts from a producer-handler as defined in any Federal order;

(5) Subtract from the remaining product pounds in each class, in sequence beginning with Class II milk, the product pounds in receipts of other source milk:

(i) In the form of cream containing 18 percent or more butterfat;

(ii) In the form of condensed skim milk or nonfat dry milk utilized in a reconstituted or fortified product; and

(iii) In other Class II products which are reprocessed or converted to another product during the month;

(6) Subtract from the remaining product pounds in Class II milk, the product pounds of other source milk received in the form of Class I products (i) at producer milk plants under § 1004.7(b) from nonproducer milk plants not regulated under any Federal order, (ii) at any producer milk plant from any nonproducer milk plant engaged in bottling and distributing milk in fluid form which is not regulated under any Federal order and (iii) at producer milk plants under § 1004.7(a) from any nonproducer milk plant not engaged in bottling and distributing milk in fluid form if both the buying handler and seller have filed in writing a claim that such milk shall be allocated to Class II milk: *Provided,* That during the months of October through January, if the product pounds of such receipts exceed the remaining product pounds in Class II the balance shall be subtracted from the remaining product pounds in Class I milk;

(7) Subtract from the remaining product pounds in each class, the product pounds of other source milk received in the form of products designated as Class I milk in § 1004.41(a) which are priced under another Federal order and not allocated pursuant to paragraph (a) of this section, as follows:

(i) In sequence, beginning with Class II milk, if received at a producer milk plant defined in § 1004.7(b) in bulk, or in consumer-type packages but not allocated to Class I milk in subparagraph (3) of this paragraph;

(ii) Pro rata from each class, if received at a producer milk plant defined in § 1004.7(a) in bulk: *Provided,* That the quantity assigned under this subdivision shall not exceed the quantity classified and priced as Class I milk under the other order or subject to such classification and pricing if assigned to Class I milk under this order; and

(iii) In sequence, beginning with Class II milk, if received at a producer milk plant defined in § 1004.7(a) in consumer-type packages or in bulk but not allocated to Class I milk in subparagraph (3) of this paragraph or subdivision (ii) of this subparagraph.

(8) Subtract from the product pounds remaining in each class, the product pounds in receipts from producer milk plants of other handlers and assigned to such class pursuant to §§ 1004.44 and 1004.45: *Provided,* That if the product pounds of such receipts to be subtracted from Class II milk are greater than the remaining product pounds in such class, the balance shall be subtracted from the remaining product pounds of Class I milk;

(9) Add to the remaining product pounds in Class II milk, the product pounds subtracted pursuant to subparagraph (1) of this paragraph;

(10) If the remaining product pounds in both classes exceed the product pounds of producer milk and other source milk received from plants not regulated under any Federal order which was not previously allocated, subtract such ex-

cess from the remaining product pounds in series beginning with Class II milk. Any amount so subtracted shall be known as "overage."

(11) During the months of October through January, subtract pro rata from the remaining product pounds in each class, the product pounds of other source milk in the form of products designated as Class I milk in § 1004.41(a) if received at producer milk plants defined in § 1004.7(a) from nonproducer milk plants not regulated under any Federal order and not subtracted pursuant to subparagraph (6) of this paragraph.

(c) Butterfat shall be allocated under the same procedure outlined for gross product pounds in paragraph (b) of this section.

(d) Divide the pounds of butterfat in each class by the hundredweight of product pounds in such class to determine the weighted butterfat content of each class.

9. In § 1004.50 the introductory text preceding paragraph (a), the following language, "Except as set forth in § 1004.53" is revoked and the word "each" where it first appears in such text is changed to read "Each".

10. The provisions of § 1004.53 are revoked, § 1004.54 is vacated and the provision formerly contained therein is now contained in § 1004.53.

11. In § 1004.61, paragraph (b) the word, "(pool)" is revoked wherever it appears, and paragraphs (a), (c), and (d) are revised to read as follows:

§ 1004.61 Plants subject to other Federal orders.

(a) Any plant qualified to be both a producer milk plant pursuant to § 1004.7 (a) and a regulated plant under the provisions of any other Federal order shall be fully subject to the provisions of this order during any month in which it disposes of in this marketing area on routes and to other producer milk plants a greater volume of its Class I milk (as defined in this part) than the volume of Class I milk (as defined in such other Federal milk order) disposed of in such other marketing area on routes and to regulated plants under the other Federal milk order, unless, notwithstanding that it would be regulated under this part it is nevertheless regulated under such other order.

* * * * *

(c) Any producer milk plant qualified pursuant to § 1004.7 (a) or (b) which is a regulated plant under another Federal order shall not be subject to the provisions of §§ 1004.50 through 1004.53, 1004.70 through 1004.71, and 1004.80 through 1004.85 except as such provisions apply to payments to a cooperative association in its capacity as the operator of any plant which is a producer milk plant under this part and an unregulated plant under the other Federal order: *Provided,* That for purposes of determining the status under this part of such plant's otherwise unregulated supply sources, the assignment under such other order of, (1) producer receipts, (2) receipts from other regulated plants, and (3) other source receipts shall be recognized by equivalent assignment under this order prior to the application of § 1004.47 with respect to other receipts at such plant.

(d) In the case of the New York-New Jersey order, equivalent assignment under this part shall be as follows:

New York-New Jersey order:	*Philadelphia order*
Class I–A or I–B	Class I
Class II	Class II
Class III	Class II
Skim milk subject to the fluid skim differential	Class I

12. In § 1004.70 paragraph (c) the reference to § 1004.47 (a)(9) and (b) is revised to read "§ 1004.47 (b)(10) and (c)".

13. Revise § 1004.85(b) to read as follows:

§ 1004.85 Expense of administration.

* * * * *

(b) All receipts of milk from nonproducer milk plants which are allocated to classes pursuant to § 1004.47 (b)(11) and (c), and receipts of milk from other nonproducer milk plants which are allocated to Class I milk, except milk on which an administrative assessment is applicable under the provisions of another Federal order.

Amendments to Wilmington order provisions. 1. Section 1010.7 is revised by changing the period at the end of the section to a colon and adding the following proviso:

§ 1010.7 Fluid milk plant.

* * * * *

(c) * * * *and provided further,* That for the purposes of paragraphs (b) and (c) all milk supplied during the month to a pasteurizing or bottling plant described in paragraph (a) of this section from any plant not engaged in bottling and distributing milk in fluid form, shall be considered to have been allocated pro rata to Class I and Class II milk, unless both the buying handler and seller each file in writing not later than the date on which reports are due pursuant to § 1010.30 a claim that such milk shall be allocated to Class II milk pursuant to § 1010.46 and a sufficient quantity of Class II milk is available in the plant of the transferee handler.

2. Revise § 1010.10 to read as follows:

§ 1010.10 Producer.

"Producer" means any person (except a producer-handler and a dairy farmer whose farm is included in a pool bulk tank unit as defined under the New York-New Jersey milk order) who produces milk which is received at a fluid milk plant: *Provided,* That if such milk is diverted for his account by a handler from a fluid milk plant to a nonfluid milk plant it shall be deemed to have been received by the diverting handler at a fluid milk plant at the location of the plant from which it was diverted.

3. Revise § 1010.11 to read as follows:

§ 1010.11 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk (a) received at a fluid milk plant directly from producers, not including the skim milk or butterfat contained in milk received in a pool bulk tank unit as defined under the New York-New Jersey milk order, or (b) diverted from a fluid milk plant to a nonfluid milk plant in accordance with the conditions set forth in § 1010.10.

4. Revise § 1010.30 by adding a new paragraph (f) to read as follows:

§ 1010.30 Reports of receipts and utilization.

* * * * *

(f) Milk received from dairy farmers whose farms are included in a pool bulk tank unit(s) as defined under the New York-New Jersey milk order.

5. Revise § 1010.31(b)(4) and add a new subparagraph (5) to read as follows:

(4) Promptly after milk is first receiver from any producer or dairy farmer whose farm is included in a pool bulk tank unit as defined under the New York-New Jersey milk order, (i) the name and address of such producer, (ii) the date upon which such milk was first received, and (iii) the plant at which such milk was received.

(5) Within 10 days after the market administrator's request, with respect to any dairy farmer whose farm is included in a pool bulk tank unit as defined under the New York-New Jersey milk order and with respect to a period or periods of time designated by the market administrator, (i) the name and address, (ii) the total pounds of milk received, (iii) the average butterfat test of milk received, and (iv) the number of days upon which milk was received.

6. In § 1010.44 redesignate paragraph (c) to paragraph (d), add a new paragraph (c), and revise the introductory text of former paragraph (c) [redesignated as paragraph (d)] to read as follows:

§ 1010.44 Transfers.

* * * * *

(c) In the class or classes to which assigned under another Federal order if transferred to a nonfluid milk plant regulated by the other order: *Provided,* That (i) if any milk is disposed of in the New York-New Jersey marketing area, either on routes or to regulated plants, which is subject to the classification and pricing provisions of Order No. 2 it shall be classified in accordance with its classification assignment under the New York-New Jersey order, or (2) if such milk is subject to "partial pooling" under another Federal order it shall be classified in accordance with the utilization reflected by the blend price computed under such order.

(d) As Class I milk if transferred or diverted in bulk form as milk or skim milk to a nonfluid plant which is not subject to another Federal order unless:

* * * * *

7. Revise § 1010.46 to read as follows:

§ 1010.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1010.45 the market administrator shall determine the classification of producer milk for each handler as follows:

(a) For each handler who either receives milk priced under a Federal order which provides for marketwide pooling to offset his disposition of Class I–A milk in the New York-New Jersey marketing area, or receives milk from dairy farmers whose farms are included in a pool bulk tank unit under the New York-New Jersey order, subtract such receipts from the total pounds of skim milk and butterfat in each class in accordance with its classification assignment under the other order, except that if any such milk exceeds the quantity classified under such other order as Class I (Class I–A in the New York-New Jersey order), it shall not be subtracted pursuant to this paragraph.

(b) Skim milk remaining after the computation in paragraph (a) of this section shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk in producer milk classified pursuant to § 1010.41(b)(5);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in receipts of certified milk in packaged form;

(3) Subtract from the remaining pounds of skim milk in Class I milk, any remaining pounds of skim milk in other source milk in the form of products designated as Class I milk in § 1010.41(a) received during the month in consumer packages from a fully regulated plant under another Federal order if classified and priced as Class I milk under such order, or subject to such classification and pricing if assigned to Class I milk under this order;

(4) Subtract from the remaining pounds of skim milk in each class, in sequence, beginning with Class II milk, the pounds of skim milk received in other source milk in the form of milk and milk products from a producer-handler as defined in any Federal order.

(5) Subtract from the remaining pounds of skim milk in each class, in sequence, beginning with Class II milk, the pounds of skim milk in other source milk (i) received at fluid milk plants under § 1010.7 (b) and (c) from nonfluid milk plants not regulated under any Federal order, (ii) in receipts at any fluid milk plant from any nonfluid milk plant engaged in bottling and distributing milk in fluid form which is not regulated under any Federal order, (iii) at fluid milk plants under § 1010.7(a) from any nonfluid milk plant not engaged in bottling and distributing milk in fluid form if both the buying handler and seller have filed in writing a claim that such milk shall be allocated to Class II milk, and (iv) in the form of cream containing 18 percent or more butterfat and other Class II products which are reprocessed or converted to another product during the month;

(6) Subtract from the remaining pounds of skim milk in each class, the pounds of skim milk received in other source milk in the form of products designated as Class I milk in § 1010.41(a) which are priced under another Federal order and not allocated pursuant to paragraph (a) of this section, as follows:

(i) In sequence, beginning with Class II milk, if received at a fluid milk plant defined in § 1010.7 (b) or (c) in bulk, or in consumer packages but not allocated to Class I milk in subparagraph (3) of this paragraph;

(ii) Pro rata from each class, if received at a fluid milk plant defined in § 1010.7(a) in bulk: *Provided,* That the quantity assigned under this subdivision shall not exceed the quantity classified and priced as Class I milk under the other order or subject to such classification and pricing if assigned to Class I milk under this order; and

(iii) In sequence, beginning with Class II milk, if received at a fluid milk plant defined in § 1010.7(a) in consumer packages or in bulk but not allocated to Class I milk in subparagraph (3) of this paragraph or subdivision (ii) of this subparagraph.

(7) Subtract from the remaining pounds of skim milk in each class, in sequence beginning with Class II milk, the pounds of skim milk contained in inventory of fluid cream and Class I products on hand at the beginning of the month;

(8) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from the fluid milk plants of other handlers in the form of fluid cream and products designated as Class I milk in § 1010.41(a)(1) according to the classification thereof as determined pursuant to § 1010.44(a);

(9) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(10) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in producer milk and other source milk not previously allocated received from plants not regulated under any Federal order, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

(11) During the months of September through December, subtract pro rata from the remaining pounds of skim milk in each class, the pounds of skim milk in the form of products designated as Class I milk in § 1010.41(a) if received at fluid milk plants defined in § 1010.7 (a) from nonfluid milk plants not regulated under any Federal order and not subtracted pursuant to subparagraph (5) of this paragraph.

(c) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (b) of this section; and

(d) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, pursuant to paragraphs (b) and (c) of this section, and determine the weighted average butterfat content of each class.

8. Revise § 1010.61 by designating the present text in the section as paragraph (a) and adding a paragraph (b) to read as follows:

§ 1010.61 Plants subject to other Federal orders.

* * * * *

(b) In the case of the New York-New Jersey order, equivalent assignment under this part shall be as follows:

	Wilmington order
New York-New Jersey order:	
Class I–A or I–B	Class I
Class II	Class II
Class III	Class II
Skim milk subject to the fluid skim differential	Class I

9. In § 1010.70(c) the reference to "§ 1010.46 (a)(6) and (b)" is revised to read "§ 1010.46 (b)(10) and (c)."

10. Revise § 1010.84(b) to read as follows:

§ 1010.84 Expense of administration.

* * * * *

(b) All receipts of milk from nonfluid milk plants which are allocated to classes pursuant to § 1010.46 (b)(11) and (c) and receipts from other nonfluid milk plants of other source milk which are allocated to Class I milk, except other source milk on which an administrative assessment is applicable under the provisions of another Federal order.

Signed at Washington, D.C., on June 7, 1963.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 63–6221; Filed, June 13, 1963; 8:45 a.m.]